

**HARDING TOWNSHIP BOARD OF ADJUSTMENT MINUTES**  
**MEETING**  
**June 17, 2021**  
**7:30 PM**

**CALL TO ORDER AND STATEMENT OF COMPLIANCE**

The Board Chair, Mr. Flanagan called the meeting of the Board of Adjustment to order at 7:30 and announced that adequate notice of the meeting had been made in accordance with the New Jersey State Open Public Meetings Act and State Executive Order 103.

**ROLL**

Ms. Taglairino called the roll. It went as follows:

Mr. Cammarata	Present	Mr. Newlin	Present	Mr. Maselli	Excused
Mr. Addonizio	Present	Ms. Sovolos	Present	Mr. Boyan	Present
Mr. Rosenbaum	Present	Mr. Symonds	Present	Mr. Flanagan	Present

Mr. Hall, Board Attorney, Mr. Fox, Board Engineer, Ms. Mertz, Board Planner and Ms. Taglairino, Board Secretary were present as well.

**REGULAR MEETING**

**ADMINISTRATIVE—Mr. Flanagan**

Mr. Hall noted that Application BOA# 14-20 Murphy is still waiting to be deemed complete.

Mr. Flanagan noted that the BOA Annual Report for 2020 was sent to the Board members. The members had additional suggestions for the report and the discussion was tabled until the July meeting.

Mr. Hall noted that the meetings will be moved to in-person moving meetings back to public meetings after July 1, 2021. Mr. Hall noted that a revised notice will be published.

Mr. Hall noted the following applications are carried until the July 15, 2021 meeting:

<u>Application BOA# 02-21</u>	Dr. James Wittig
<u>Application BOA#03-21</u>	Jack Lankford Wade

Mr. Hall noted the following applications are deemed complete for a July 15, 2021 hearing subject to proper noticing:

<u>Application BOA# 11-21</u>	William Lewis
<u>Application BOA# 7 &amp;12-21</u>	529 Waterfront Properties, LLC

## **RESOLUTIONS**

### **Application BOA# 01-21**

Abhinov Singh & Catherine Roure  
216 Village Road, B12/L20.01, R-1 Zone

Mr. Hall noted an amendment to correct a name in the resolution.

Mr. Flanagan made a motion to adopt Resolution BOA# 01-21 Singh-Roure. Ms. Sovolos seconded the motion. On a voice vote eligible members, Mr. Addonizio, Mr. Newlin, Ms. Sovolos, Mr. Cammarata, Mr. Flanagan, and Mr. Boyan voted in favor of the adoption.

Mr. Rosenbaum recused.

### **Application BOA# 05-21**

Colin and Susie Ford  
114 Lees Hill Road, B5/L11

Mr. Hall noted that he amended the resolution to correct reflect that there is no pool on the property.

Mr. Flanagan made a motion to adopt Resolution BOA# 05-21 Ford. Ms. Sovolos seconded the motion. On a voice vote eligible members, Mr. Addonizio, Mr. Newlin, Ms. Sovolos, Mr. Cammarata, Mr. Flanagan, and Mr. Rosenbaum voted in favor of the adoption.

### **Application BOA# 10-21**

Todd & Tracey Walters  
71 Village Road, B16/L13.03, RR Zone

Mr. Hall noted that there was a correction made regarding the condition of the screening in the resolution.

Mr. Flanagan made a motion to adopt Resolution BOA# 10-21 Walters. Mr. Rosenbaum seconded the motion. On a voice vote eligible members, Mr. Addonizio, Mr. Newlin, Ms. Sovolos, Mr. Cammarata, Mr. Flanagan, and Mr. Rosenbaum voted in favor of the adoption.

The above resolutions are appended to the minutes.

## **EXTENSIONS**

### **Application BOA# 1-19**

Madeline S. Pitney 2008 Revocable Trust  
34 Hunter Drive, B48/L8.01

Mr. Flanagan made a motion to grant an extension for Application BOA# 1-19 Madeline S. Pitney. The motion was seconded by Mr. Newlin. On a voice vote all were in favor of granting the extension through December of 2022.

### **Application BOA# 09-20**

David Cvijic  
4 Oxford Lane, B5/L22

Mr. Flanagan made a motion to grant an extension for Application BOA# 09-20 David Cvijic. The motion was seconded by Mr. Rosenbaum. On a voice vote all were in favor of granting the extension.

Application# BOA# 09-21

Chester & Amanda Van Doren

37 Long Hill Road, B17/L41, RR Zone

Application is requesting variance relief for lot coverage for a patio as per N.J.S.A.40:55D-70(c).

Presenting:

John Dusinberre, Attorney

Chet Van Doren, Owner

- Mr. Dusinberre presented revised plans with reduced coverage. The reduction came from removing the pool house, some of the pool surround and pavers from the patio and fire pit area.
- Mr. Dusinberre stated that the owners would agree to a cap on the coverage even if the flagstaff driveway is removed from the adjacent property.
- Mr. Rosenbaum commented positively on the revisions.

Mr. Rosenbaum made a motion to approve the application with the coverage cap. The motion was seconded by Mr. Symonds. A roll call vote went as follows:

For: Mr. Symonds, Mr. Flanagan, Mr. Rosenbaum, Mr. Addonizio,

Ms. Sovolos, and Mr. Cammarata

Abstain: Mr. Newlin

Application BOA# 08-21

Steve & Rachel Fleming

508 Spring Valley Road, B11/L5.01, R-1 Zone

Applicant is requesting variance relief for frontage, front and side setbacks and undersized building envelope as per N.J.S.A.40:55D-70(c).

Presenting:

Nicole Magdziak, Attorney

Rachel and Steve Fleming, Owners

Thomas Chauvette, Architect

- Ms. Magdziak presented revised plans with the full extent of the proposed additions proposed for a phase one and phase two project and now showing what is proposed for the rear addition of the home.
- Ms. Magdziak noted that with the full plans the top floor area would comply with the ½ story. One of the additions needs DEP approval.

- Mr. Hall noted that the plans still do not meet the full criteria of the ½ story ordinance.
- Mr. Chauvette presented revised plans showing the left side addition and rear addition.
- The application is seeking side and front setbacks on an existing non-conforming structure as well as a variance for a third story if the floor area is not reduced.
- Mr. Fox offered some clarity to the ½ story ordinance.
- There was a discussion on how to make the structure more compliant and address “the intersection of the slope of the roof and façade.”

The application was carried until the July 15, 2021 meeting.

The Board took a break from 9:08 to 9:18

Mr. Maselli joined the meeting at 9:18.

Ms. Taglairino took the roll call after the break. The following members were present:

Mr. Flanagan, Mr. Cammarata, Mr. Boyan, Mr. Symonds, Mr. Rosenbaum, Mr. Addonizio and Ms. Sovolos.

Application BOA# 17-18

New York SMSA Limited Partnership d/b/a Verizon  
Wireless  
8 Millbrook Road, B17/L1, PL Zone  
Applicant requesting variance relief for use, per NJSA  
40:55D-70(d) for a cell tower.

Presenting:

Richard Schneider, Attorney

Mr. Mlenak is acting Board Attorney for this application.

Robert Simon is an objecting attorney for this application.

Mr. Michael Einreinhof, Photographer for the Objectors

Mr. Saganic, Resident 32 Millbrook

Mr. Bansal, Resident, 6 Coppertree Lane

Mr. Einreinhof, Mr. Saganic and Mr. Bansal were sworn in by Mr. Mlenak.

Mr. Einreinhof, Mr. Saganic and Mr. Bansal all presented photo exhibits.

The Board discussed a site inspection for neighbors at 32 Millbrook Road, 28 Millbrook Road, 7 Lees Hill Road, 6 Coppertree Lane and 5 Village Road with a date of July 10, 2021 at 9:00 a.m.

The application is carried until the July 15, 2021 meeting. The meeting will have a special start time of 6:30.

A transcript of the testimony is appended to the minutes.

## **OTHER BUSINESS**

None

## **ADJOURNMENT**

Mr. Flanagan adjourned the meeting at 11.02.

*Lori Taglairino*

Respectfully submitted by Lori Taglairino, Board of Adjustment Secretary

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### **HARDING TOWNSHIP BOARD OF ADJUSTMENT RESOLUTION**

**Abhinov Singh & Catherine Roure - Application No. 1-21  
216 Village Road - Block 12, Lot 20.01  
Adopted June 17, 2021**

WHEREAS, Abhinov Singh and Catherine Roure applied to the Harding Township Board of Adjustment for variances from Section 225-122(F) of the Land Use and Development Ordinance, which requires a 100' minimum rear setback, and Section 225-115(B), which prohibits the enlargement of certain nonconforming structures, in order to permit construction of a vertical addition to the current nonconforming residence to add a usable half story on the attic level and related improvements on a lot located in a R-4 Zone and a R-1 Zone at 216 Village Road and designated on the Township Tax Map as Block 12, Lot 20.01; and

WHEREAS, the Board of Adjustment conducted an initial public hearing on the application at a virtual meeting using the Zoom platform on April 15, 2021, for which public notice and notice by applicants were given as required by law; and

WHEREAS, the applicants' proposal was revised in response to comments at the initial hearing to reduce the size of the proposed vertical addition in order to limit the expanded attic level to a conforming half story, thus eliminating any need for variance relief to permit a third story; and

WHEREAS, the modified proposal as set forth on revised plans was the subject of a continued public hearing at a virtual meeting using the Zoom platform conducted on May 20, 2021; and

WHEREAS, the Board of Adjustment determined that a site inspection was not necessary based on the characteristics of this particular proposal and the requested variance relief in relation to the existing improvements on the property; and

WHEREAS, the Board of Adjustment considered the testimony and exhibits presented during the public hearing; and

WHEREAS, at the virtual meeting on May 20, 2021 the Board of Adjustment adopted an oral resolution approving the revised variance application, subject to certain conditions and based on findings and conclusions as memorialized herein;

NOW, THEREFORE, BE IT RESOLVED by the Harding Township Board of Adjustment, this 17<sup>th</sup> day of June 2021, that the oral approval of the revised variance application of Abhinov Singh and Catherine Roure is hereby memorialized as follows:

#### **Findings of Fact and Statement of Reasons**

1. The applicants' property is located at 216 Village Road. The front 150' feet of the property is in a R-4 Zone, consisting of an area of 36,754 square feet (approximately .84 acres). The remainder of the property is in a R-1 Zone, consisting of 5.91 acres.

2. The portion of the property in a R-1 Zone is improved with a single-family residence and detached barn. These improvements conform with all zoning requirements except for a nonconforming rear setback for the residence (49.54' vs. 100' minimum) and the nonconforming location of the barn in front of the residence. Significant portions of the property are environmentally constrained by freshwater wetlands, wetlands transition areas, flood hazard areas, a pond and The Great Brook. The existing improvements and constrained areas were shown on survey included with plans prepared by SEK Architect LLC, initially dated March 15, 2021 and last revised May 7, 2021.

3. The applicants proposed to renovate portions of the residence and construct an expanded attic level, as shown on the plans.

4. The proposed improvements would maintain the nonconforming rear setback of 49.54', requiring a variance from the 100' minimum setback requirement in Section 225-122(F).

5. As initially proposed, the expanded attic level would be classified as a third story, requiring variance relief from the 2-1/2 story limit in Section 225-122(D)(1). In response to feedback at the initial hearing, the proposal was revised to conform with the criteria for a permitted half story, thus eliminating the need for variance relief.

6. The proposed vertical addition requires a variance from Section 225-115(B) to allow enlargement of a nonconforming structure.

7. At the initial public hearing, the applicants agreed to remove a shed located less than 100' from the rear lot line, thus eliminating any variance issue as to this accessory structure.

8. Testimony in support of the application was provided by applicant Abhinov Singh, who explained the proposed improvements. He stated that the residence was damaged by a fallen tree during a storm, causing significant damage as shown on photographs that he presented. The need to repair this damage served as the stimulus for a broader renovation and vertical addition

proposal to upgrade and enhance the residence.

9. No member of the public or neighbor objected to the application.

10. The need the requested rear setback variance is attributable to the existing nonconforming location of the residence. The proposed improvements will not alter the building footprint and will maintain the current nonconforming rear setback of 49.54'.

11. The vertical addition will comply with all other zoning regulations.

12. The applicants agreed that as a condition of any variance approval prior to issuance of a building permit for the garage addition they would obtain confirmation from the Township Engineer that the residence would continue to have a conforming building height.

13. The vertical addition and related improvements will enhance the appearance of the applicants' property, which will offset any possible visual impact.

14. Under these particular circumstances, the proposed improvements will not result in any adverse impacts on adjacent properties or the surrounding community.

15. In the case of this specific property and proposal and the nonconforming location of existing residence, strict application of the zoning requirements would impose peculiar and exceptional practical difficulties on the applicants by precluding the proposed improvements, thus making variance relief appropriate pursuant to N.J.S.A. 40:55D-70(c)(1).

16. The variance relief requested by the applicants can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Master Plan and Zoning Ordinance of the Township of Harding.

#### **Description of Variances**

1. A variance is hereby granted from the 100' minimum setback requirement in Section 225-122(F) of the Land Use and Development Ordinance to permit construction of a vertical addition to the residence that will maintain the nonconforming rear setback of 49.54', as shown on plans prepared by SEK Architect LLC, initially dated March 15, 2021 and last revised May 7, 2021.

2. A variance is hereby granted from the restriction against the enlargement of certain nonconforming structures in Section 225-115(B) of the Ordinance to allow enlargement of the applicants' nonconforming residence by construction of a vertical addition, as shown on the plans.

#### **Variance Conditions**

These variances are granted subject to the following conditions:

1. The applicants shall obtain a building permit and any other necessary approvals.

2. Any outstanding property taxes, application fees and technical review fees shall be paid prior to issuance of a building permit and certificate of occupancy.

3. These variances are based on and authorize only the specific proposed improvements as set forth in the testimony and plans. New or amended variance approval may be required for any materially different improvements.

4. These variances are granted subject to the express condition that prior to issuance of a building permit for the vertical addition, the applicants shall provide the Township Engineer with acceptable confirmation that the expanded residence will continue to have a conforming building height.

5. In accordance with Section 225-35(C)(1) of the Ordinance, these variances shall expire unless the authorized construction is commenced within one year from the date of this resolution and is subsequently pursued in a reasonably diligent manner.

#### **Vote on Resolutions**

For the Oral Resolution: Addonizio, Maselli, Newlin, Sovolos, Flanagan, Cammarata & Boyan.

Against the Oral Resolution: None.

Recuse: Rosenbaum.

For the Form of the Written Resolution: Addonizio, Newlin, Sovolos, Flanagan, Cammarata & Boyan.

Against the Form of the Written Resolution: None.

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### **HARDING TOWNSHIP BOARD OF ADJUSTMENT RESOLUTION**

**Abhinov Singh & Catherine Roure - Application No. 1-21  
216 Village Road - Block 12, Lot 20.01**

**Adopted June 17, 2021**

WHEREAS, Abhinov Singh and Catherine Roure applied to the Harding Township Board of Adjustment for variances from Section 225-122(F) of the Land Use and Development Ordinance, which requires a 100' minimum rear setback, and Section 225-115(B), which prohibits the enlargement of certain nonconforming structures, in order to permit construction of a vertical addition to the current nonconforming residence to add a usable half story on the attic level and related improvements on a lot located in a R-4 Zone and a R-1 Zone at 216 Village Road and designated on the Township Tax Map as Block 12, Lot 20.01; and

WHEREAS, the Board of Adjustment conducted an initial public hearing on the application at a virtual meeting using the Zoom platform on April 15, 2021, for which public notice and notice by applicants were given as required by law; and

WHEREAS, the applicants' proposal was revised in response to comments at the initial hearing to reduce the size of the proposed vertical addition in order to limit the expanded attic level to a conforming half story, thus eliminating any need for variance relief to permit a third story; and

WHEREAS, the modified proposal as set forth on revised plans was the subject of a continued public hearing at a virtual meeting using the Zoom platform conducted on May 20, 2021; and

WHEREAS, the Board of Adjustment determined that a site inspection was not necessary based on the characteristics of this particular proposal and the requested variance relief in relation to the existing improvements on the property; and

WHEREAS, the Board of Adjustment considered the testimony and exhibits presented during the public hearing; and

WHEREAS, at the virtual meeting on May 20, 2021 the Board of Adjustment adopted an oral resolution approving the revised variance application, subject to certain conditions and based on findings and conclusions as memorialized herein;

NOW, THEREFORE, BE IT RESOLVED by the Harding Township Board of Adjustment, this 17<sup>th</sup> day of June 2021, that the oral approval of the revised variance application of Abhinov Singh and Catherine Roure is hereby memorialized as follows:

**Findings of Fact and Statement of Reasons**

17. The applicants' property is located at 216 Village Road. The front 150' feet of the property is in a R-4 Zone, consisting of an area of 36,754 square feet (approximately .84 acres). The remainder of the property is in a R-1 Zone, consisting of 5.91 acres.

18. The portion of the property in a R-1 Zone is improved with a single-family residence and detached barn. These improvements conform with all zoning requirements except for a nonconforming rear setback for the residence (49.54' vs. 100' minimum) and the nonconforming location of the barn in front of the residence. Significant portions of the property are environmentally constrained by freshwater wetlands, wetlands transition areas, flood hazard areas, a pond and The Great Brook. The existing improvements and constrained areas were shown on survey included with plans prepared by SEK Architect LLC, initially dated March 15, 2021 and last revised May 7, 2021.

19. The applicants proposed to renovate portions of the residence and construct an expanded attic level, as shown on the plans.

20. The proposed improvements would maintain the nonconforming rear setback of 49.54', requiring a variance from the 100' minimum setback requirement in Section 225-122(F).

21. As initially proposed, the expanded attic level would be classified as a third story, requiring variance relief from the 2-1/2 story limit in Section 225-122(D)(1). In response to feedback at the initial hearing, the proposal was revised to conform with the criteria for a permitted half story, thus eliminating the need for variance relief.

22. The proposed vertical addition requires a variance from Section 225-115(B) to allow enlargement of a nonconforming structure.

23. At the initial public hearing, the applicants agreed to remove a shed located less than 100' from the rear lot line, thus eliminating any variance issue as to this accessory structure.

24. Testimony in support of the application was provided by applicant Abhinov Singh, who explained the proposed improvements. He stated that the residence was damaged by a fallen tree during a storm, causing significant damage as shown on photographs that he presented. The need to repair this damage served as the stimulus for a broader renovation and vertical addition proposal to upgrade and enhance the residence.

25. No member of the public or neighbor objected to the application.

26. The need for the requested rear setback variance is attributable to the existing nonconforming location of the residence. The proposed improvements will not alter the building footprint and will maintain the current nonconforming rear setback of 49.54'.

27. The vertical addition will comply with all other zoning regulations.

28. The applicants agreed that as a condition of any variance approval prior to issuance of a building permit for the garage addition they would obtain confirmation from the Township Engineer that the residence would continue to have a conforming building height.

29. The vertical addition and related improvements will enhance the appearance of the applicants' property, which will offset any possible visual impact.

30. Under these particular circumstances, the proposed improvements will not result in any adverse impacts on adjacent properties or the surrounding community.

31. In the case of this specific property and proposal and the nonconforming location of existing residence, strict application of the zoning requirements would impose peculiar and exceptional practical difficulties on the applicants by precluding the proposed improvements, thus making variance relief appropriate pursuant to N.J.S.A. 40:55D-70(c)(1).

32. The variance relief requested by the applicants can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Master Plan and Zoning Ordinance of the Township of Harding.

**Description of Variances**

1. A variance is hereby granted from the 100' minimum setback requirement in Section 225-122(F) of the Land Use and Development Ordinance to permit construction of a vertical addition to the residence that will maintain the nonconforming rear setback of 49.54', as shown on plans prepared by SEK Architect LLC, initially dated March 15, 2021 and last revised May 7, 2021.

2. A variance is hereby granted from the restriction against the enlargement of certain nonconforming structures in Section 225-115(B) of the Ordinance to allow enlargement of the applicants' nonconforming residence by construction of a vertical addition, as shown on the plans.

**Variance Conditions**

These variances are granted subject to the following conditions:

6. The applicants shall obtain a building permit and any other necessary approvals.

7. Any outstanding property taxes, application fees and technical review fees shall be paid prior to issuance of a building permit and certificate of occupancy.

8. These variances are based on and authorize only the specific proposed improvements as set forth in the testimony and plans. New or amended variance approval may be required for any materially different improvements.

9. These variances are granted subject to the express condition that prior to issuance of a building permit for the vertical addition, the applicants shall provide the Township Engineer with acceptable confirmation that the expanded residence will continue to have a conforming building height.

10. In accordance with Section 225-35(C)(1) of the Ordinance, these variances shall expire unless the authorized construction is commenced within one year from the date of this resolution and is subsequently pursued in a reasonably diligent manner.

**Vote on Resolutions**

For the Oral Resolution: Addonizio, Maselli, Newlin, Sovolos, Flanagan, Cammarata & Boyan.

Against the Oral Resolution: None.

Recuse: Rosenbaum.

For the Form of the Written Resolution: Addonizio, Newlin, Sovolos, Flanagan, Cammarata & Boyan.

Against the Form of the Written Resolution: None.

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**HARDING TOWNSHIP BOARD OF ADJUSTMENT  
RESOLUTION**

**Todd & Tracey Walters - Application No. BOA 10-21**

**71 Village Road - Block 16, Lot 13.03**

**Adopted June 17, 2021**

**(administratively corrected June 22, 2021)**

WHEREAS, Todd and Tracey Walters applied to the Harding Township Board of Adjustment for variances from Section 225-122(C)(2) of the Land Use and Development Ordinance, which permits a maximum building area ratio of 4% on flag lots, and Section 225-122(H), which permits a maximum lot coverage ratio of 10%, to authorize construction of a pool, pool patio, covered rear deck addition and related improvements on the applicants' property located at 71 Village Road in a RR Zone and designated on the Township Tax Map as Block 16, Lot 13.03; and

WHEREAS, the Board of Adjustment conducted a public hearing on the application at a virtual meeting on May 20, 2021 using the Zoom platform, for which public notice and notice by applicants were given as required by law; and

WHEREAS, the Board of Adjustment determined that a site inspection was not necessary based on the particular circumstances of this property and proposal; and

WHEREAS, the Board of Adjustment considered the testimony and exhibits presented during the public hearing; and

WHEREAS, at the virtual meeting on May 20, 2021, the Board of Adjustment adopted an oral resolution approving the variance application, subject to certain conditions and based on findings and conclusions as memorialized herein;

NOW, THEREFORE, BE IT RESOLVED by the Harding Township Board of Adjustment, this 17th day of June 2021, that approval of the variance application of Todd and Tracey Walters is hereby memorialized as follows:

**Findings of Fact and Statement of Reasons**

1. The applicants' property is a flag lot located at 71 Village Road in a RR Zone. It has a lot size of 3.030 acres, excluding the flag staff.

2. The property is improved with a single-family residence, as shown on a zoning plan prepared by Yannaccone, Villa & Aldrich LLC, dated April 22, 2021. The residential improvements are nonconforming due to the building area ratio (4.07% vs. applicable 4% maximum) and lot coverage ratio (10.94% vs. 10% maximum), as shown on the zoning table.

3. This property was the subject of a variance approval resolution adopted by the Board of Adjustment on June 16, 2005 on Application No. 9-05 that granted variance relief from the 10% lot coverage ratio requirement to permit construction of the current improvements with a ratio of 11.6%. That variance approval was prior to a subsequent zoning amendment that excluded the area of flag staffs and any improvements thereon from building area and lot coverage ratio calculations, which resulted in a nonconforming building area ratio calculation and a reduced lot coverage ratio calculation, as shown on the current zoning table.

4. The applicants proposed to construct an in-ground swimming pool, pool patio and a covered patio addition to the rear of the residence, as shown on the zoning plan and on architectural plans prepared by Matthew Smetana, R.A., dated April 20, 2021. In connection with this project, excess driveway paving would be removed as shown on the zoning plan in order to produce a net reduction in the calculated lot coverage ratio.

5. The proposed covered rear patio addition would increase the nonconforming building area ratio from 4.07% to 4.65%, requiring a variance from the 4% maximum in Section 225-122(C)(2) that applies due to the fact that the property is a flag lot with all setbacks exceeding 100'.

6. The proposed improvements would result in a net decrease in the nonconforming lot coverage ratio from 10.94% to 10.77% due to removal of designated excess driveway pavement. A variance is required from the 10% maximum in Section 225-122(H), since it would still be exceeded.

7. The applicant was represented in proceedings before the Board of Adjustment by Nicole Magdziak, Esq., of Day Pitney LLP.

8. Testimony in support of the application was provided by engineer Candace Davis and architect Matthew Smetana, who explained the proposed improvements.

9. One neighbor commented on the application and requested screening for her property (Lot 19). The applicants agreed to provide reasonable screening of the proposed improvements for the neighbor's property, subject to prior review and approval by the Township Engineer.

10. The need for variance relief from the building area ratio restriction is attributable to the current nonconforming ratio that is the result of construction of the residence prior to adoption of the zoning amendment that eliminated the flag staff area from the building area ratio calculation.

11. The increased building area will be limited to the area of a covered rear patio addition. The applicants agreed to a



condition prohibiting future enclosure of the covered patio. Under these circumstances the size and location of the covered rear patio addition will not result in the appearance of excessive building bulk.

12. Visibility of the pool and covered patio from adjoining properties to the rear and side will be limited, and the applicants agreed to install reasonable screening for the neighbor's property, subject to prior review and approval by the Township Engineer. They also agreed to shield exterior lighting.

13. The prior variance approval authorized a greater lot coverage ratio for this flag lot. This project will result in a net decrease in the lot coverage ratio as a result of removal of excess driveway pavement as designated on the plan.

14. The property currently contains multiple dry wells to address roof runoff, and there is no indication that additional stormwater management improvements would be necessary or appropriate.

15. The proposed swimming pool, pool patio and covered rear patio represent customary residential improvements in Harding Township, and they will enhance the residential use and utility of the applicants' property.

16. Construction of the pool and related improvements will not result in any adverse impacts on adjacent properties under the particular circumstances of this property and proposal.

17. Based on the location and characteristics of the existing nonconforming improvements and the proposed new improvements, denial of the requested variances would impose peculiar and exceptional practical difficulties on the applicants by precluding the proposed pool, pool patio, covered rear patio addition and related improvements, thus making variance relief appropriate pursuant to N.J.S.A. 40:55D-70(c)(1).

18. The variance relief requested by the applicants can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Master Plan and Zoning Ordinance of the Township of Harding.

#### **Description of Variances**

1. A variance is hereby granted from the applicable building area ratio limit of 4% in Section 225-122(C)(2) of the Land Use and Development Ordinance to permit construction of a covered rear patio addition that will increase the nonconforming ratio from 4.07% to 4.65%, as shown on architectural plans prepared by Matthew Smetana, R.A., dated April 20, 2021, and on a zoning plan prepared by Yannaccone, Villa & Aldrich LLC, dated April 22, 2021.

2. A variance is hereby granted from the lot coverage ratio limit of 10% in Section 225-122(H) of the Ordinance to permit construction of a pool, pool patio and related improvements that after removal of designated existing driveway pavement will result in a maximum new ratio of 10.77%, as shown on the architectural plans and variance plan.

#### **Variance Conditions**

These variances are granted subject to the following conditions:

1. Any outstanding property taxes, application fees and technical review fees shall be paid prior to issuance of a building permit and certificate of occupancy.

2. The applicants shall obtain a building permit and any other necessary approvals.

3. These variances are based on and authorize only the specific improvements proposed by the applicants as set forth in the testimony, application and plans. New or amended variance approval may be required for any different improvements.

4. These variances are granted subject to the condition that prior to issuance of a certificate of occupancy, reasonable screening shall be opposite the proposed improvements to provide screening for nearby Lot 19, subject to prior review and approval by the Township Engineer, existing lot coverage shall be removed consistent with the approved variance plan, and exterior lighting shall be shielded.

5. These variances shall expire unless the authorized construction is commenced within one year from the date of this resolution and subsequently is pursued in a reasonably diligent manner.

#### **Vote on Resolutions**

For the Oral Resolution: Addonizio, Rosenbaum, Sovolos, Symonds, Flanagan, Cammarata & Boyan.

Against the Oral Resolution: None.

For the Form of the Written Resolution: Addonizio, Rosenbaum, Sovolos, Symonds, Flanagan, Cammarata & Boyan.

Against the Form of the Written Resolution: None.

<div> <div>Page 1</div> <div> <div>HARDING TOWNSHIP BOARD OF ADJUSTMENT</div> <div> <div>IN THE MATTER OF: : TRANSCRIPT</div> <div> <div>CASE: BOA# 17-18 : OF</div> <div>New York SMSA Limited Partnership: d/b/a Verizon Wireless : PROCEEDINGS</div> <div>8 Millbrook Road : Block 17; Lot 1; PL Zone :</div> </div> <div>_____X</div> <div> <div>Thursday, June 17, 2021</div> <div>Zoom Remote Videoconference</div> <div>Commencing at 9:22 p.m.</div> </div> <div> <div>BOARD MEMBERS PRESENT:</div> <div>MIKE FLANAGAN, Chairman</div> <div>ALF NEWLIN</div> <div>ELIZABETH SOVOLOS</div> <div>THOMAS ADDONIZIO</div> <div>ARIC ROSENBAUM</div> <div>GEORGE BOYAN</div> <div>MICHAEL CAMMARATA</div> <div>HUGH SYMONDS</div> </div> <div> <div>ALSO PRESENT:</div> <div>LORI TAGLAIRINO, Board Administrator</div> <div>PAUL D. FOX, P.E., CME</div> <div>McKINLEY MERTZ, PP, AICP</div> <div>DR. BRUCE EISENSTEIN, Cellular Communications Consultant</div> </div> <div> <div>PRECISION REPORTING SERVICE</div> <div>Certified Shorthand Reporters</div> <div>(908) 642-4299</div> </div> </div> </div> </div>	<div> <div>Page 2</div> <div> <div>1</div> <div>2</div> <div>3</div> <div>4</div> <div>5</div> <div>6</div> <div>7</div> <div>8</div> <div>9</div> <div>10</div> <div>11</div> <div>12</div> <div>13</div> <div>14</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div> </div> <div> <div>APPEARANCES:</div> <div>GREENBAUM, ROWE, SMITH &amp; DAVIS, LLP</div> <div>BY: STEVEN G. MLENAK, ESQUIRE</div> <div>Attorneys for the Board</div> <div>VOGEL, CHAIT, COLLINS &amp; SCHNEIDER, ESQUIRES</div> <div>BY: RICHARD SCHNEIDER, ESQUIRE</div> <div>Attorneys for the Applicant</div> <div>HEROLD LAW, PA</div> <div>BY: ROBERT F. SIMON, ESQUIRE</div> <div>Attorneys for the Objectors: SGSL, LLC; Harsh and</div> <div>Nina Bansal; Michael and Susan Koenke;</div> <div>David and Eunice Conine; Brian and</div> <div>Christina McKittrick; Livio Saganic and</div> <div>Christel Engel; James M. Carifa and</div> <div>Sarah G. Conine; Ted Cotton</div> </div> </div>
<div> <div>Page 3</div> <div> <div>1</div> <div>2</div> <div>3</div> <div>4</div> <div>5</div> <div>6</div> <div>7</div> <div>8</div> <div>9</div> <div>10</div> <div>11</div> <div>12</div> <div>13</div> <div>14</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div> </div> <div> <div>INDEX</div> <div> <div>WITNESS: PAGE</div> <div>MICHAEL EINREINHOF</div> <div>By Mr. Simon..... 26</div> <div>By the Board..... 33</div> <div>LIVIO SAGANIC</div> <div>By Mr. Simon..... 56</div> <div>By the Board..... 62</div> </div> <div>EXHIBITS</div> <div> <div>IN EVD. DESCRIPTION PAGE</div> <div>O-1 Series of photographs, 13 pages 28</div> <div>O-2 Photographs taken from Saganic Residence at 32 Millbrook Road, four pages 55</div> <div>O-3 Photographs taken from Bansal residence of crane test at DPW site, two pages 55</div> </div> <div> <div>PUBLIC MEMBERS ARE SWORN:</div> <div>No public members are sworn</div> </div> </div> </div>	<div> <div>Page 4</div> <div> <div>1</div> <div>2</div> <div>3</div> <div>4</div> <div>5</div> <div>6</div> <div>7</div> <div>8</div> <div>9</div> <div>10</div> <div>11</div> <div>12</div> <div>13</div> <div>14</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div> </div> <div> <div>CHAIRMAN FLANAGAN: All right. Next up,</div> <div>we're up to Verizon.</div> <div>Mr. Schneider, are you with us?</div> <div>MR. SCHNEIDER: I am, Mr. Chairman.</div> <div>CHAIRMAN FLANAGAN: Welcome back, gentlemen.</div> <div>I apologize. We ran a little bit later than I was</div> <div>hoping, but we're close.</div> <div>I think first up I want to talk a little</div> <div>bit about the -- Mr. Simon, let me ask, are you going</div> <div>to present a planner tonight?</div> <div>MR. SIMON: So, and I did communicate this</div> <div>with both Mr. Schneider and Mr. Mlenak. My plan is to</div> <div>first present a photographer to go over what's been</div> <div>premarked as O-1 and supplied to Lori, and then O-2 and</div> <div>O-3 which are also a series of photographs that were</div> <div>taken by my client and another neighbor. And then from</div> <div>there with that foundation to then present Mr. Steck,</div> <div>our professional planner.</div> <div>CHAIRMAN FLANAGAN: Okay. So we put it out</div> <div>to the public, anyone that wanted us to have -- us to</div> <div>visit their properties to view the DPW site or whatever</div> <div>we are able to see.</div> <div>Lori, I think we had five people in total,</div> <div>is that correct, that responded they'd like us to</div> <div>visit?</div> </div> </div>

<p style="text-align: right;">Page 5</p> <p>1 SECRETARY TAGLAIRINO: Yes, that is</p> <p>2 correct.</p> <p>3 CHAIRMAN FLANAGAN: All right. And does</p> <p>4 everyone have this map showing where the properties</p> <p>5 are?</p> <p>6 SECRETARY TAGLAIRINO: No. I sent it to</p> <p>7 just you. And one property's not on there because they</p> <p>8 contacted me after --</p> <p>9 CHAIRMAN FLANAGAN: Could you share that</p> <p>10 map then on the screen so the Board members can see it?</p> <p>11 And while she's doing that let me ask, are</p> <p>12 there any members of the public who would like us to</p> <p>13 visit their property or potentially like us to visit</p> <p>14 their property as part of this site visit tour who have</p> <p>15 not already responded to Lori?</p> <p>16 MR. SIMON: Mr. Chairman, can I interrupt</p> <p>17 for a second? I know I gave Lori a list of certain</p> <p>18 clients, and also actually non-clients via</p> <p>19 communications with one of my clients who would be</p> <p>20 interested. So I would maybe respectfully ask if we</p> <p>21 can see this map or the list or something, and then go</p> <p>22 from there.</p> <p>23 CHAIRMAN FLANAGAN: Yeah. All right. I</p> <p>24 just want to put it out to anybody else that's on the</p> <p>25 call that has not communicated through anyone that they</p>	<p style="text-align: right;">Page 6</p> <p>1 would like their property visited, please speak up.</p> <p>2 But now we're going to take a look at this map.</p> <p>3 Lori, if you can zoom in on that colored</p> <p>4 section.</p> <p>5 SECRETARY TAGLAIRINO: I'm rotating.</p> <p>6 Sorry. Hit the wrong button. All right. Is that</p> <p>7 good?</p> <p>8 CHAIRMAN FLANAGAN: Yeah. You can probably</p> <p>9 go one more in. I don't think we're going to go as far</p> <p>10 as -- there you go.</p> <p>11 MR. MLENAK: Lori, can you move your cursor</p> <p>12 to wherever the fifth property that's not been colored?</p> <p>13 SECRETARY TAGLAIRINO: I think it was --</p> <p>14 was it 5 Millbrook? Yeah, I think it's this one here.</p> <p>15 CHAIRMAN FLANAGAN: All right. Is there</p> <p>16 anyone else, Mr. Simon, that you --</p> <p>17 MR. SIMON: Right, so the list I have is,</p> <p>18 and I see the coloring is based on lot and block. I</p> <p>19 mean, what I have is by common address. I have Conine</p> <p>20 address, which is 7 Lees Hill Road. The Bansal</p> <p>21 address, which is 6 Copper Tree Lane. I have Saganic</p> <p>22 and Engel, which is 32 Millbrook Road. O'Donnell, 28</p> <p>23 Millbrook.</p> <p>24 CHAIRMAN FLANAGAN: I'm sorry, pause there</p> <p>25 for a second. Saganic and Engel, is that two separate</p>
<p style="text-align: right;">Page 7</p> <p>1 properties or one?</p> <p>2 SECRETARY TAGLAIRINO: One.</p> <p>3 MR. SIMON: I believe that's one. I</p> <p>4 apologize. That's one at 32 Millbrook Road, I believe.</p> <p>5 CHAIRMAN FLANAGAN: Okay. Sorry. Go</p> <p>6 ahead.</p> <p>7 MR. SIMON: That's okay. Also O'Donnell at</p> <p>8 28 Millbrook Road. I already mentioned Bansal and</p> <p>9 Conine. I was also told today that there are two</p> <p>10 additional properties. I don't know if they're on the</p> <p>11 line tonight. A Leslie Wade on Village Road and Jeff</p> <p>12 Flamme, 5 Village Road.</p> <p>13 SECRETARY TAGLAIRINO: All right. So I</p> <p>14 think this is Village Road here.</p> <p>15 CHAIRMAN FLANAGAN: That's Millbrook you're</p> <p>16 looking at, Lori.</p> <p>17 SECRETARY TAGLAIRINO: Oh, Village Road?</p> <p>18 Great. I don't know. Maybe they can help identify</p> <p>19 themselves, because it came in after the fact.</p> <p>20 CHAIRMAN FLANAGAN: Yes. Mr. Flamme, did I</p> <p>21 say that correctly?</p> <p>22 MR. FLAMME: Yes.</p> <p>23 CHAIRMAN FLANAGAN: What's your address, or</p> <p>24 what's your lot and block, if you know it?</p> <p>25 MR. FLAMME: I'm 5 Village Road.</p>	<p style="text-align: right;">Page 8</p> <p>1 CHAIRMAN FLANAGAN: Go ahead.</p> <p>2 MR. FLAMME: I see the arrow. You've got</p> <p>3 to move to the left a little bit. Right there. That's</p> <p>4 me.</p> <p>5 CHAIRMAN FLANAGAN: Okay.</p> <p>6 MR. FLAMME: And Wade's on the corner.</p> <p>7 CHAIRMAN FLANAGAN: Like ten?</p> <p>8 MR. FLAMME: Yes.</p> <p>9 CHAIRMAN FLANAGAN: Thank you, Mr. Flamme.</p> <p>10 Mr. Simon, is that everyone then including</p> <p>11 Flamme and Wade? So we have highlighted --</p> <p>12 MR. SIMON: Yes, Mr. Chairman. I'm not</p> <p>13 aware of anyone else who has reached out to my office</p> <p>14 or to my client expressing a desire to be part of the</p> <p>15 site visit which would include going on to their</p> <p>16 properties and viewing the proposed location from their</p> <p>17 properties.</p> <p>18 CHAIRMAN FLANAGAN: Okay. So then Lori,</p> <p>19 you thought there was one more on Millbrook; is that</p> <p>20 correct?</p> <p>21 SECRETARY TAGLAIRINO: No, you know what,</p> <p>22 it was block eight. I thought it was over here. It's</p> <p>23 block eight over in 18, so --</p> <p>24 CHAIRMAN FLANAGAN: Okay. So it sounds</p> <p>25 like -- it looks like we have six property owners that</p>

<p style="text-align: right;">Page 9</p> <p>1 would like us to visit. I would like to go to each one  2 of them. I think we can do that. I think we can get  3 through six in the morning. My thought is we're going  4 to do this -- I think -- what do we want to do, right?  5 What do we want to accomplish? We want to go to  6 the property. We want to see the point of view from  7 the homeowner.</p> <p>8 I think Steve -- one of the things I want  9 to talk about a little bit about is what exactly are we  10 going to do while we're there? I know we talked about  11 it last month a little bit, but why don't you touch on  12 that for us.</p> <p>13 MR. MLENAK: Sure. So I know this Board  14 has experience in doing site inspections on residential  15 applications. I don't know that any application like  16 this where you're going out to really see nothing  17 that's there yet but really a point of view has been  18 done before. I think what's important for the Board  19 and also the public, especially those whose properties  20 are welcoming the Board, to know is that this is not  21 going to be a dialogue. It's not going to be a  22 discussion. It can't be. There's going to be no  23 public record. There's going to be no recording. The  24 purpose of this is for the Board to actually do an  25 on-site inspection and visualize the point of view from</p>	<p style="text-align: right;">Page 10</p> <p>1 the respective property.</p> <p>2 So to the extent that there are  3 pleasantries exchanged there is I guess directional  4 instructions of I guess where it's going to be. That  5 is fine. Both the Applicant and the Objector's  6 attorney are going to be welcome, as well as members of  7 the public to be there, but the Board and the property  8 owners and any other member of the public should be  9 mindful and it will be instructed again once we're  10 there that there can be no dialogue, discussion, debate  11 or question and answer period during these site visits.  12 It's really just inspection only.</p> <p>13 CHAIRMAN FLANAGAN: Okay. So with that  14 said, I don't expect it's going to be more than, I  15 mean, what is there to see? We're going to go to the  16 location, we're going to walk towards the DPW. Is it  17 ten minutes apiece? I'm open to other suggestions, but  18 in my mind that's really the amount of time we're going  19 to spend on each property. And I think with that we're  20 going to spend an hour between these six properties.</p> <p>21 Does anybody on the Board think we need  22 significantly longer than that?</p> <p>23 BOARD MEMBER NEWLIN: Mike, can I ask you?  24 I assume there's a decision no balloon should be put  25 up?</p>
<p style="text-align: right;">Page 11</p> <p>1 CHAIRMAN FLANAGAN: There will not be a  2 balloon. You know, I would say, you know, well,  3 actually I don't know what I would say on that.</p> <p>4 BOARD MEMBER NEWLIN: Is there a cost issue  5 or what is the issue? How are we going to compare if  6 we go to these sites how are we going to actually see  7 where -- let me strike that.</p> <p>8 How do we actually determine what we could  9 see under these scenarios?</p> <p>10 MR. MLENAK: So I did put in the request to  11 Mr. Schneider who's on the line who can also explain,  12 but I do understand that in addition to there being  13 cost there are also state agency approvals which are  14 necessary for such a thing. Is that correct, Mr.  15 Schneider?</p> <p>16 BOARD MEMBER NEWLIN: Steve, I didn't hear  17 what you said.</p> <p>18 MR. MLENAK: In addition to the cost I  19 understand that there is some agent state approval that  20 is necessary before those are able to be floated, but I  21 deferred to Mr. Schneider on the Applicant's reason for  22 it.</p> <p>23 MR. SCHNEIDER: There are a host of  24 logistical issues including wind and otherwise. So  25 we're really not in a position to confirm that we can</p>	<p style="text-align: right;">Page 12</p> <p>1 present the balloon on the date of the site visit.</p> <p>2 BOARD MEMBER NEWLIN: Is it still open,  3 Rich? Is it a possibility or it's a no?</p> <p>4 MR. SCHNEIDER: I'm really not prepared to  5 agree to that. We've done two crane tests already.  6 We've prepared a visual analysis. But we're really not  7 prepared to do a third visual analysis at this point.</p> <p>8 MR. SIMON: Mr. Chairman, can I be heard on  9 that, please? Just for what it's worth, I would  10 contend that while due to wind issues and related  11 issues I don't believe the intent of floating a balloon  12 in the location at the proposed height is to completely  13 accurately depict exactly how high, you know, the  14 tower's going to be, and exactly within, you know, a  15 couple of feet where it's going to be located, but I do  16 believe and I'm not aware -- it's sort of like flying a  17 kite, I'm not aware of any restriction on the municipal  18 county or state level that would prevent the applicant  19 from floating a balloon just to provide some  20 perspective for Board members, Board professionals, and  21 members of the public as they are going around from  22 property to property. It's just a balloon. We're not  23 asking that a crane be brought in, rented or otherwise.  24 But that's all.</p> <p>25 CHAIRMAN FLANAGAN: I understand and</p>

<p style="text-align: right;">Page 13</p> <p>1 appreciate it. And I do appreciate that the applicant  2 has performed several tests previously. They've had a  3 crane there on a couple of occasions. They've  4 presented renderings. In my mind it's a question of,  5 you know, is it reasonable to ask again and again and  6 again. And I think they've provided a lot of  7 information already. I would suggest, though, that if  8 there is not a great challenge with receiving permits  9 or cost, is not anyone free to go ask the township if  10 they can go fly a balloon on their property? I'm not  11 suggesting you do it, but I think you could, or could  12 any of the other property owners request that a balloon  13 be flown? So I don't think we should -- we need to  14 require the applicant to continually do these tests.  15 But I think another party probably could go petition  16 the town.</p> <p>17 MR. SIMON: Petition the town to float a  18 balloon on their properties? Oh, on the DPW property?</p> <p>19 CHAIRMAN FLANAGAN: Yeah. Exactly.</p> <p>20 MR. SIMON: We would certainly, you know,  21 in full disclosure pursue that under the appropriate  22 circumstances. Because -- and frankly in terms of  23 where you may be going, Mr. Chairman, in terms of a  24 time and a date for the site visit certainly, at least  25 in my experience with these, that doing them earlier in</p>	<p style="text-align: right;">Page 14</p> <p>1 the morning typically is better with reduced amounts of  2 wind, et cetera.</p> <p>3 CHAIRMAN FLANAGAN: Yes. I would envision  4 this happening at 9:00 a.m. I mean, if you were to  5 come back to me and say you've spoken to the town, you  6 received permission and you want to do that, but 8:30  7 is better for you, then absolutely, we'll accommodate  8 that.</p> <p>9 But yes, Mr. Simon, I think it will be  10 first thing in the morning call it nine o'clock -- not  11 that that's really first thing but probably nine  12 o'clock in the morning.</p> <p>13 MR. SIMON: Yeah. I mean, typically -- or  14 I shouldn't say typically, that's not fair, but on  15 occasion where I've been present for these, sometimes  16 they're done really early in the morning, like right  17 after sunrise. And I don't want to get tomatoes thrown  18 at me when we have our first live meeting next month or  19 thereafter. I'm just, you know, for the benefit of the  20 Board and the public, certainly it's up to the Board,  21 but the earlier the better.</p> <p>22 CHAIRMAN FLANAGAN: Yes, I understand. And  23 you know, I wanted -- if it works better at 7:00 a.m.  24 than 9:00 a.m. let us know that. The goal here is to  25 go see what our neighbors are going to look at, right.</p>
<p style="text-align: right;">Page 15</p> <p>1 So if we need to do it at seven o'clock in the morning  2 then let's do that. But, yeah, I'd say speak to  3 whoever you need to in the township, and you know, to  4 seek permission to go on the property and fly the  5 balloon. I would say just let Steve know what you came  6 up with.</p> <p>7 MR. SIMON: I'll let Rich know too, of  8 course.</p> <p>9 CHAIRMAN FLANAGAN: Yes, thank you.</p> <p>10 BOARD MEMBER NEWLIN: Can I just comment,  11 from criteria perspective, if -- certainly it would be  12 helpful -- I understand the cost aspect, and I also  13 understand absolutely to do a crane test and things  14 like that, but this is dominant issue for sure. And if  15 it is feasible to have a balloon at a certain height,  16 we know what that height is. That's got to be very  17 helpful. It would be to me anyway. And if we don't  18 have that then any existing collateral that we can use  19 to get an estimate of what this thing would look like  20 at the various sites, and I know there is some  21 collateral that really should be available as a packet  22 ahead of time.</p> <p>23 Because otherwise you're going to go there,  24 at least for me, it's going to be very hard to -- you  25 look from a property to the DPW site, how are you going</p>	<p style="text-align: right;">Page 16</p> <p>1 to correlate what that tower's going to look like  2 without some kind of guide.</p> <p>3 CHAIRMAN FLANAGAN: I agree.</p> <p>4 BOARD MEMBER NEWLIN: Otherwise what's  5 going to happen at least from -- you're going to over  6 estimate or you're going to under estimate. So that's  7 my concern. Thanks.</p> <p>8 CHAIRMAN FLANAGAN: Yeah. In my view, Alf,  9 and tell me if you see it differently, but property  10 owners have invited us to their properties. They said  11 they would like us to come and see what it looks from  12 their property. I think that's completely reasonable  13 and we want to do that.</p> <p>14 And I think while we're there, and Steve  15 stop me if we're going off the rails here, but if there  16 is something that either Mr. Simon or the owners want  17 to give us to help point out what they're concerned  18 about and point out what they're looking at, then by  19 all means I want to receive that. So by collateral I  20 think you probably mean photos or something. I don't  21 know.</p> <p>22 BOARD MEMBER NEWLIN: Yes. We have  23 existing -- the Applicant's given lots of pictures from  24 some sites, I guess, but the existing collateral that  25 we have, we certainly want to use, whatever that is.</p>

<p style="text-align: right;">Page 17</p> <p>1 MR. MLENAK: I would agree, but I would  2 caution against accepting new exhibits or what can be  3 interpreted as new exhibits during a site inspection  4 outside of the record. Certainly anything, and Mr.  5 Simon has already indicated that he intends to  6 introduce some certain photographs into evidence today,  7 into the record today. Those should be fair game, but  8 I would caution the Board from inviting or accepting  9 new exhibits outside of this process.</p> <p>10 BOARD MEMBER NEWLIN: And to clarify, I  11 meant strictly information that came in through the  12 proper channels. Absolutely nothing outside the proper  13 channels.</p> <p>14 MR. SIMON: Can I make a suggestion in that  15 light? Maybe, and I think we're sort of all coming to  16 the same conclusion, that maybe the thing to do here is  17 to at the -- once I prepare or once I present through  18 these witnesses these photographic exhibits, should the  19 Board request or feel it's appropriate or relevant to  20 have any additional collateral information just tell us  21 and we'll be happy to supply that.</p> <p>22 CHAIRMAN FLANAGAN: Okay. All right. So  23 then just, mechanically, is it possible, and I don't  24 know if these -- Mr. Simon, I don't know if you need to  25 disclose this, but those highlighted properties, do you</p>	<p style="text-align: right;">Page 18</p> <p>1 represent all of them or some of them?</p> <p>2 MR. SIMON: I do not represent all of them,  3 certainly. And I have, I believe, let Mr. Schneider  4 know and Mr. Mlenak know who I'm representing and who  5 I'm not representing of that group, and in full  6 disclosure which I've already disclosed, that the  7 reason I provided some of those names an addresses were  8 based on those people, at least from what I understand,  9 reaching out to one of my clients, who in turn reached  10 out to me, you know, for purposes of efficiency, that's  11 all.</p> <p>12 CHAIRMAN FLANAGAN: I was just curious, is  13 it possible to get from one property to the other. So  14 are there fences, is there something that would prevent  15 us, just parking in one spot and walking to those three  16 or four highlighted properties? I guess we'll find  17 out.</p> <p>18 MR. SIMON: I'll be happy to try through  19 one of my clients certainly provide as much information  20 to the Board as possible to make the site visit as  21 efficient as possible.</p> <p>22 CHAIRMAN FLANAGAN: Yeah, and that's my  23 hope, is to park in one property and then be able to  24 walk to the other three from that one spot. And if we  25 can, we will; if we can't then we'll have to move</p>
<p style="text-align: right;">Page 19</p> <p>1 along. But, I'm hoping for ten minutes at each  2 property, including I guess it's 8 and 10 Village.</p> <p>3 Why don't we -- do we need to set a time  4 and date now, or do we want to wait? I'd kind of like  5 to set a time and date, to be honest with you.</p> <p>6 MR. MLENAK: Let me just clarify one thing,  7 I don't believe it's 8 and 10 Village. I think those  8 are just the lot designations. I'm not sure what the  9 street addresses are.</p> <p>10 Also, when we do the public notice for this  11 we need to identify, I guess, a meeting place and then  12 from there you can walk around, but we need to pick a  13 generalized meeting place.</p> <p>14 CHAIRMAN FLANAGAN: You know what would be  15 great, if we can park at the DPW. Again, I don't know  16 are there fences between the DPW and the other  17 properties?</p> <p>18 So I'll tell you what, do we need to figure  19 out these logistics right now or can we get into the  20 nitty-gritty of this off-line?</p> <p>21 MR. SIMON: I would suggest, Mr. Chairman,  22 that I would be more than happy to get the information  23 that you're, I believe, requesting. I don't have it  24 right now, or try to facilitate obtaining it. And then  25 work with Lori and Steve and Rich in terms of a</p>	<p style="text-align: right;">Page 20</p> <p>1 logistics game plan, if that makes any sense to the  2 Board.</p> <p>3 CHAIRMAN FLANAGAN: That makes perfect  4 sense. So let's talk about a date for this, you know.  5 What better time than now? Should we do it the 26th?  6 Let me ask members of the Board. Go ahead.</p> <p>7 BOARD MEMBER ADDONIZIO: Mike, the 26th  8 starting the 10th I will not be here. I know that's a  9 lot of chunk of time so if you have to do it without me  10 obviously do it without me, but those three Saturdays I  11 will not be around.</p> <p>12 CHAIRMAN FLANAGAN: Okay. What about the  13 17? Actually, when's the next meeting?</p> <p>14 MR. MLENAK: The next meeting is the 15th.</p> <p>15 CHAIRMAN FLANAGAN: All right. Tom, you  16 may miss this opportunity. How about anybody else?  17 Does anybody else have an issue with the 26th?</p> <p>18 BOARD MEMBER SOVOLOS: It's possible I'm  19 away next weekend. It's a little bit up in the air,  20 but it's sort of likely given the gap between school  21 and camp.</p> <p>22 CHAIRMAN FLANAGAN: Okay. And Mr. Simon,  23 you were going to say?</p> <p>24 MR. SIMON: I'm not around next weekend or  25 the weekend of July 4th.</p>

<p style="text-align: right;">Page 21</p> <p>1 CHAIRMAN FLANAGAN: Oh, boy, thank you.</p> <p>2 MR. SIMON: Yeah, the following weekend is,</p> <p>3 yeah.</p> <p>4 CHAIRMAN FLANAGAN: How about the 10th?</p> <p>5 Does anybody have a problem with the 10th?</p> <p>6 MR. MLENAK: I'm going to have general</p> <p>7 problems over the weekend, but I will have somebody</p> <p>8 from my office attend so you don't have to worry about</p> <p>9 that.</p> <p>10 CHAIRMAN FLANAGAN: Mr. Schneider, does the</p> <p>11 10th work with you?</p> <p>12 MR. SCHNEIDER: It does, Mr. Chairman.</p> <p>13 CHAIRMAN FLANAGAN: And Mr. Simon, that's</p> <p>14 okay by you too?</p> <p>15 MR. SIMON: Yes.</p> <p>16 CHAIRMAN FLANAGAN: And guys, apologies for</p> <p>17 one second. I'm still on the audio. Any members of</p> <p>18 the Board have a problem with the 10th? All right. So</p> <p>19 why don't we -- go ahead.</p> <p>20 BOARD MEMBER NEWLIN: I'm good. Sorry.</p> <p>21 CHAIRMAN FLANAGAN: Why don't we put it</p> <p>22 down for the 10th then. Why don't we tentatively say</p> <p>23 9:00 a.m. And if we find we need to do it earlier</p> <p>24 we'll do it earlier. I mean, I think that's part of</p> <p>25 figuring out the logistics.</p>	<p style="text-align: right;">Page 22</p> <p>1 Mr. Simon, you'll speak with Steve and Lori</p> <p>2 and Mr. Schneider?</p> <p>3 MR. SIMON: I will. I'm also going to --</p> <p>4 I'll investigate about the balloon, about wind. I will</p> <p>5 also speak to my clients the extent that we're even</p> <p>6 allowed to do this, I'm not sure, about renting a</p> <p>7 crane, you know, depending on weather conditions. I'm</p> <p>8 going to look into that immediately through my office</p> <p>9 and I'll certainly communicate that as fast as possible</p> <p>10 with the Board and the Board professionals, and of</p> <p>11 course Mr. Schneider and Mr. Mlenak.</p> <p>12 CHAIRMAN FLANAGAN: All right. So I think</p> <p>13 that takes care of that for now.</p> <p>14 MR. MLENAK: The only thing I would add is,</p> <p>15 we have six properties on the list. We just picked a</p> <p>16 date if conceivably one of those six property owners</p> <p>17 are not available that date to just let Lori know.</p> <p>18 CHAIRMAN FLANAGAN: Say that again, Steve?</p> <p>19 MR. MLENAK: You have six property owners,</p> <p>20 I believe, that are on the list to be visited. It's</p> <p>21 possible that one of them is not available on the 10th</p> <p>22 to show the property or to be available for us to be on</p> <p>23 the property. If that's the case and they're on here</p> <p>24 I'm just inviting them to tell Lori so they're not</p> <p>25 included in whatever notice that ends up going out.</p>
<p style="text-align: right;">Page 23</p> <p>1 CHAIRMAN FLANAGAN: Got it.</p> <p>2 MR. SIMON: And can I ask logistically?</p> <p>3 How and when is the notice going to go out?</p> <p>4 MR. MLENAK: I think that's part of what</p> <p>5 we're going to discuss with Lori, but I think it needs</p> <p>6 to be at least 48 hours before the site inspection.</p> <p>7 And my preference would be to identify a location, a</p> <p>8 meeting place point location where everybody could meet</p> <p>9 and, you know, walk in whatever appropriate order it</p> <p>10 is.</p> <p>11 SECRETARY TAGLAIRINO: Right. All</p> <p>12 locations will be put on the -- will be put on there.</p> <p>13 They have to be put on there.</p> <p>14 CHAIRMAN FLANAGAN: All right. Are we</p> <p>15 ready to start the --</p> <p>16 BOARD MEMBER ROSENBAUM: Mike, one last</p> <p>17 thing on that. Do we need a rain date or is it rain or</p> <p>18 shine?</p> <p>19 CHAIRMAN FLANAGAN: I don't want to stand</p> <p>20 there in the rain, though. Yeah, if we do the 10th</p> <p>21 that's the last day before -- I don't know. Do we need</p> <p>22 to put a rain date on there?</p> <p>23 BOARD MEMBER NEWLIN: I think it's got to</p> <p>24 happen on the 10th.</p> <p>25 BOARD MEMBER SYMONDS: I'll bring an</p>	<p style="text-align: right;">Page 24</p> <p>1 umbrella.</p> <p>2 BOARD MEMBER NEWLIN: In case there's some</p> <p>3 huge storm.</p> <p>4 CHAIRMAN FLANAGAN: The 10th it is then.</p> <p>5 BOARD MEMBER ADDONIZIO: You're not going</p> <p>6 to fly a balloon in the rain, but --</p> <p>7 CHAIRMAN FLANAGAN: Well, let's keep our</p> <p>8 fingers crossed for good weather.</p> <p>9 All right. Mr. Schneider, I think you came</p> <p>10 off my screen. Your application, so remind me where we</p> <p>11 are. I think we're at a point where Mr. Simon was</p> <p>12 going to start presenting. Do you have anything else,</p> <p>13 Mr. Schneider?</p> <p>14 MR. SCHNEIDER: I did not. The case is now</p> <p>15 -- the status of the application is now it's Mr.</p> <p>16 Simon's case. All I would ask respectfully is that we</p> <p>17 reserve some time a couple of minutes at the conclusion</p> <p>18 of tonight's hearing to discuss the process moving</p> <p>19 forward and the end date hopefully for the application</p> <p>20 in terms of dates.</p> <p>21 In an effort to conclude the matter I had a</p> <p>22 lengthy conversation with Mr. Mlenak earlier today and</p> <p>23 I outlined what I thought was a reasonable means of</p> <p>24 concluding the matter, which I think is given your</p> <p>25 agenda and the Applicant's commitment to bring the</p>

<p style="text-align: right;">Page 25</p> <p>1 matter to conclusion, I think is a shared objective.</p> <p>2 So I have a game plan I think that's reasonable to</p> <p>3 bring the matter to conclusion within hopefully a</p> <p>4 relatively short period of time, and hopefully without</p> <p>5 the necessity of any special meetings during the</p> <p>6 summer. And I'm not insensitive to that.</p> <p>7 So all I would ask is that you afford me</p> <p>8 some opportunities to outline what I think is</p> <p>9 reasonable at the conclusion of tonight's matter.</p> <p>10 CHAIRMAN FLANAGAN: Is five minutes enough</p> <p>11 or do you need ten?</p> <p>12 MR. SCHNEIDER: Five will be fine.</p> <p>13 CHAIRMAN FLANAGAN: So Mr. Simon, I think</p> <p>14 it's your -- your turn to bring your witnesses. If you</p> <p>15 would just leave us five minutes before eleven o'clock</p> <p>16 so we can discuss the next steps, I'd appreciate it.</p> <p>17 MR. SIMON: Of course.</p> <p>18 CHAIRMAN FLANAGAN: All right. With that</p> <p>19 said, please introduce us to your first witness.</p> <p>20 MR. SIMON: Okay. So I think at this point</p> <p>21 our first witness is going to be Mike Einreinhof. If</p> <p>22 you can bring him up, Lori.</p> <p>23 MS. TAGLAIRINO: If he IDs himself and he</p> <p>24 speaks I could find him.</p> <p>25 MR. EINREINHOF: I'm here.</p>	<p style="text-align: right;">Page 26</p> <p>1 MR. MLENAK: Oh, I see him. Mr.</p> <p>2 Einreinhof, can you raise your right hand? Do you</p> <p>3 swear to tell the truth, the whole truth, and nothing</p> <p>4 but the truth?</p> <p>5 MR. EINREINHOF: I do.</p> <p>6 MR. MLENAK: Can you state your full name</p> <p>7 and spell it?</p> <p>8 MR. EINREINHOF: Michael Einreinhof,</p> <p>9 E-i-n-r-e-i-n-h-o-f.</p> <p>10 MR. MLENAK: Okay. Mr. Simon?</p> <p>11 M I C H A E L E I N R E I N H O F, having</p> <p>12 been duly sworn, testifies as follows:</p> <p>13 EXAMINATION BY MR. SIMON:</p> <p>14 Q. Okay. Thank you, Mr. Einreinhof. And I</p> <p>15 may call you Mike or I may call you Michael. I assume</p> <p>16 that that's okay. Can you please provide to the Board</p> <p>17 your address, your profession, and your affiliation,</p> <p>18 please?</p> <p>19 A. My address is 42 Woodland Road in Ringwood,</p> <p>20 New Jersey. And I'm a professional photographer,</p> <p>21 commercial photographer. And I was brought in to take</p> <p>22 photographs of different -- of the cell tower area from</p> <p>23 different perspectives, from different properties that</p> <p>24 are adjacent to it.</p> <p>25 Q. And so for how long, Mike, have you been a</p>
<p style="text-align: right;">Page 27</p> <p>1 commercial photographer?</p> <p>2 A. Commercial photographer for 15 years, over</p> <p>3 15 years.</p> <p>4 Q. And are you affiliated with a particular</p> <p>5 company?</p> <p>6 A. I'm self-employed. My company is Arclight</p> <p>7 Images.</p> <p>8 Q. And in terms of receiving this assignment</p> <p>9 from your client did you review any documentation</p> <p>10 before going out to the property?</p> <p>11 A. No. I had some addresses, that was it.</p> <p>12 No. I didn't have any -- actually, I didn't even have</p> <p>13 the addresses until I showed up there. I had no</p> <p>14 documentation.</p> <p>15 Q. So when you say you showed up there, you</p> <p>16 showed up at a particular property and you were asked</p> <p>17 to take photos from certain properties of the DPW area?</p> <p>18 A. Yes.</p> <p>19 MR. SIMON: So Lori, can we -- oh, crumb</p> <p>20 buns -- hold on a second. Can we put up O-1, please?</p> <p>21 Lori, can you do that?</p> <p>22 SECRETARY TAGLAIRINO: Yes. Give me a</p> <p>23 minute here. Okay. Hold on. I'll be very happy when</p> <p>24 we go back to public. I'm just saying. For this</p> <p>25 matter alone.</p>	<p style="text-align: right;">Page 28</p> <p>1 All right. Here we go. Are we there?</p> <p>2 Rob, is this it?</p> <p>3 MR. SIMON: Well, I believe that the -- the</p> <p>4 first page there which is smaller, and I don't know why</p> <p>5 it's smaller, yeah. I submitted those as full size and</p> <p>6 I don't know what happened there, but --</p> <p>7 SECRETARY TAGLAIRINO: We're getting there.</p> <p>8 MR. MLENAK: Rob, just to be clear. So O-1</p> <p>9 what we're calling O-1 is going to be the full 13</p> <p>10 pages, correct?</p> <p>11 MR. SIMON: That's correct, Steve. Unless</p> <p>12 the Board or you wish that I mark it differently, but I</p> <p>13 believe it's appropriate to mark it O-1.</p> <p>14 (Exhibit O-1 was received and marked.) BY</p> <p>15 MR. SIMON:</p> <p>16 Q. So I'm going to proffer that O-1 is a</p> <p>17 document consisting of approximately 13 pages, a series</p> <p>18 of photographs with the first page being an aerial with</p> <p>19 certain markings and identifications on it.</p> <p>20 So Mike, have you reviewed what has been</p> <p>21 marked here as O-1? And I'll get into the 13 pages.</p> <p>22 A. Yes.</p> <p>23 Q. And with regard to this document there are</p> <p>24 a series of photos that we're going to go through. Did</p> <p>25 you take all those photos?</p>



<p style="text-align: right;">Page 29</p> <p>1 A. The photos, yes.</p> <p>2 Q. And approximately on what date were those</p> <p>3 photos taken by you, approximately, if you recall?</p> <p>4 A. In March. I believe it was in March, the</p> <p>5 middle of March.</p> <p>6 MR. SCHNEIDER: March of this year or March</p> <p>7 of another year?</p> <p>8 THE WITNESS: Oh, of this year. It was</p> <p>9 2021, a few months ago.</p> <p>10 BY MR. SIMON:</p> <p>11 Q. So these photographs were taken -- and the</p> <p>12 date on the first page of the aerial in the top</p> <p>13 left-hand corner is March 17, 2021. Does that refresh</p> <p>14 your recollection as to approximately when these photos</p> <p>15 were taken?</p> <p>16 A. Yes. That sounds about right. That sounds</p> <p>17 perfect.</p> <p>18 Q. And the first page is an aerial, and this</p> <p>19 is -- was taken from what, Google Images, the aerial</p> <p>20 photograph here?</p> <p>21 A. Yes. I believe so.</p> <p>22 Q. And the numbers, or the letters as the case</p> <p>23 may be, reflect the addresses of where the photos were</p> <p>24 taken from, and they identify the actual photo location</p> <p>25 where you were when you took the photograph; correct?</p>	<p style="text-align: right;">Page 30</p> <p>1 A. Correct.</p> <p>2 Q. And my understanding, and just so we can,</p> <p>3 you know, maybe move this along and be a little more</p> <p>4 efficient for the benefit of the Board, my</p> <p>5 understanding is that locations 1A and 1B are from</p> <p>6 what's commonly known as 6 Copper Tree Lane, locations</p> <p>7 2 and 3 are from 7 Lees Hill Road, and locations 4 and</p> <p>8 5 are from 28 Millbrook Road.</p> <p>9 Does that sound right, refresh your</p> <p>10 recollection as to where the photographs were taken</p> <p>11 from?</p> <p>12 A. Yes, it does.</p> <p>13 Q. So now going -- if we can go to the second</p> <p>14 page, Lori?</p> <p>15 And before I start asking you about the</p> <p>16 particular photos, did you determine these locations to</p> <p>17 take the photographs on your own, or were you assisted</p> <p>18 by the particular neighbor or neighbors?</p> <p>19 A. Well, I walked around with the neighbors.</p> <p>20 They showed me the locations of where we were going,</p> <p>21 where the cell tower was proposed to be built. And</p> <p>22 using trees that are nearby or whatever I could tell</p> <p>23 where -- where the area was. So that's how I</p> <p>24 determined where they were.</p> <p>25 Q. And did the neighbors assist you in</p>
<p style="text-align: right;">Page 31</p> <p>1 pointing out also approximately where the cell tower</p> <p>2 was going to be located?</p> <p>3 A. Yes, correct.</p> <p>4 Q. And I see here on the second page of O-1</p> <p>5 there is a faux or fake tree pole that was superimposed</p> <p>6 onto this photograph; correct?</p> <p>7 A. Correct.</p> <p>8 Q. And who superimposed that photograph on</p> <p>9 there?</p> <p>10 A. I did.</p> <p>11 Q. And how did you go about doing that? And</p> <p>12 how did you determine the height and the image?</p> <p>13 A. Well, from other spots that we were at</p> <p>14 where we could see the tree lines and knowing how tall,</p> <p>15 where the proposed cell tower was going to be, and then</p> <p>16 determining the distance from where that spot was to</p> <p>17 where we were on other locations I, you know, either --</p> <p>18 I approximated to how tall or how much smaller or</p> <p>19 larger it would be relative to how far away from the</p> <p>20 location we were.</p> <p>21 Q. So how did you determine the particular</p> <p>22 height that you're depicting for the tower, if you use</p> <p>23 two of 13 as an example?</p> <p>24 A. I based it on how high -- I based it on how</p> <p>25 high the trees were and knowing how tall the trees were</p>	<p style="text-align: right;">Page 32</p> <p>1 in that area. I also do a lot of drone work, so I know</p> <p>2 height-wise as far as when I send up the drone where</p> <p>3 I'm going to be height-wise. You have the read-out, so</p> <p>4 I just approximated where it was going to be, where the</p> <p>5 height was going to be based on the locations that they</p> <p>6 had told me.</p> <p>7 Q. So can you tell us approximately what the</p> <p>8 height of, for example two of 13 what the approximate</p> <p>9 height is? And I know it's certainly -- this is not</p> <p>10 intended to be precise; correct?</p> <p>11 A. Correct. I know I had that information</p> <p>12 last month when I thought I was going to be on. I</p> <p>13 believe it was like 150 feet, I think we had</p> <p>14 determined, that was at the time how tall they were</p> <p>15 planning.</p> <p>16 Q. I believe it was shorter, but you'll have</p> <p>17 to check your notes. That's up to you.</p> <p>18 A. Yes. I'm sorry.</p> <p>19 Q. Do you want to -- once we go through the</p> <p>20 photographs do you want to go back to your notes so you</p> <p>21 can make that determination?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. That's fine. So this is two of 13,</p> <p>24 and what location is this from?</p> <p>25 A. This one -- this photo was from Harsh's</p>

<p style="text-align: right;">Page 33</p> <p>1 backyard, Mr. Bansal.</p> <p>2 Q. So this is 6 Copper Tree Lane?</p> <p>3 A. Right. I don't have the other image in</p> <p>4 front of me -- yes, this is the first on the map. Do</p> <p>5 you have that map photo.</p> <p>6 Q. So if you go back to the map photo, Lori,</p> <p>7 in number one.</p> <p>8 A. This is one --</p> <p>9 Q. 1A?</p> <p>10 A. Yes, I believe that's 1A. 1B was on his</p> <p>11 patio.</p> <p>12 Q. So 1A is taken from where?</p> <p>13 A. 1A is taken from Mr. Bansal's yard, from</p> <p>14 his property.</p> <p>15 Q. And then if we can go down, Lori, to three</p> <p>16 of 13, which would be 1B?</p> <p>17 BOARD MEMBER NEWLIN: And Rob, I'm sorry to</p> <p>18 --</p> <p>19 MR. SIMON: It's okay. Please, go ahead.</p> <p>20 BOARD MEMBER NEWLIN: I'm finding this very</p> <p>21 unsatisfactorily imprecise. So I hope you're going to</p> <p>22 -- can you go back to the first thing you showed us?</p> <p>23 I have no idea how high you're saying this</p> <p>24 is. And I have no idea how accurate it is from the</p> <p>25 testimony so far. And if you're okay with that then</p>	<p style="text-align: right;">Page 34</p> <p>1 I'm just going to register that concern.</p> <p>2 MR. SCHNEIDER: But -- go ahead. I'm</p> <p>3 sorry, Alf.</p> <p>4 BOARD MEMBER NEWLIN: This is just not</p> <p>5 precise enough for me to understand how seriously to</p> <p>6 take this. How we determine the height. What the</p> <p>7 height is. What trees he used. Maybe other Board</p> <p>8 members don't have that concern, but I do.</p> <p>9 MR. MLENAK: No, Alf. I was waiting for an</p> <p>10 appropriate time to step in. So what I've heard so far</p> <p>11 is we don't know the height. The location has been</p> <p>12 generally been pointed out by homeowners. It's not</p> <p>13 intended to be precise and he's certainly not been</p> <p>14 asked -- the witness has not been proffered as an</p> <p>15 expert in any kind.</p> <p>16 Obviously, the Objector's able to put</p> <p>17 forward whatever information he wants, I just want the</p> <p>18 Board to weigh the credibility and what the witness is</p> <p>19 saying in terms of how they went about superimposing</p> <p>20 these images, but Mr. Simon perhaps you can --</p> <p>21 MR. SCHNEIDER: Yeah, I will -- if I may,</p> <p>22 Mr. Chairman. I was trying to be patient, but Alf</p> <p>23 stole my thunder. I have a major, major issue with the</p> <p>24 admissibility of this document. There has to be --</p> <p>25 let's put aside we haven't even gotten into the</p>
<p style="text-align: right;">Page 35</p> <p>1 witness' expertise whether he's testified previously.</p> <p>2 What we know so far in the first ten minutes is we</p> <p>3 don't know what the height of the proposed tower is.</p> <p>4 We don't know how the height was determined. Whether</p> <p>5 there was a tree survey to determine how you determined</p> <p>6 the height based on this. We don't know whether there</p> <p>7 was any visual aid such as a crane or a balloon test.</p> <p>8 We don't know what the location of the tower is. We</p> <p>9 haven't even gotten into what it looks like. So I have</p> <p>10 a major, major issue and I object to its admissibility</p> <p>11 for all in part the reasons that have been identified</p> <p>12 by Mr. Newlin.</p> <p>13 This does not even come close in my opinion</p> <p>14 to pass. I don't think that this goes to the weight.</p> <p>15 I don't think that the exhibit itself should be</p> <p>16 admitted into evidence certainly at this point based on</p> <p>17 the proffer.</p> <p>18 CHAIRMAN FLANAGAN: Steve, so Mr. Schneider</p> <p>19 objects. Go ahead.</p> <p>20 MR. MLENAK: I'm sorry. We can hear from</p> <p>21 Mr. Simon on the objection, but generally there needs</p> <p>22 to be a foundation for documents that are asked to be</p> <p>23 entered into the record, and when those -- when that</p> <p>24 evidence or those exhibits are the nature of showing an</p> <p>25 expertise, certainly there needs to be a foundation at</p>	<p style="text-align: right;">Page 36</p> <p>1 that requisite level, and there needs to be some, you</p> <p>2 know, some vetting of the witness in terms of their</p> <p>3 expert level.</p> <p>4 This is a fact witness, and if he's showing</p> <p>5 photographs that he's taken obviously those are facts,</p> <p>6 but he's proffering or putting forward photographs with</p> <p>7 super -- you know, images superimposed and proffering</p> <p>8 that that is what the view is going to be. There needs</p> <p>9 to be a little more level of expertise. But Mr. Simon</p> <p>10 can respond and certainly ask further questions to try</p> <p>11 to establish that foundation.</p> <p>12 MR. SIMON: Sure. So let me make a couple</p> <p>13 of comments in response to what I've heard so far.</p> <p>14 First of all, the intention here is not to have this</p> <p>15 witness be accepted as an expert witness. This is a</p> <p>16 fact witness, number one.</p> <p>17 Number two, that he took photographs. He's</p> <p>18 a professional photographer who took photographs from</p> <p>19 various locations that we've identified on the Google</p> <p>20 aerial. So I don't believe that there's any objection</p> <p>21 in terms of whether -- at least so far whether he's</p> <p>22 accurately depicted where he took the photographs from,</p> <p>23 or that he's a professional photographer.</p> <p>24 Number three, I all ready, I believe,</p> <p>25 established a foundation that the photographs are taken</p>

<p style="text-align: right;">Page 37</p> <p>1 in the direction of the DPW yard based on his going to</p> <p>2 the various properties and being either assisted or</p> <p>3 otherwise by the various neighbors as to the location</p> <p>4 where the DPW yard is.</p> <p>5 Number four, with regard to him</p> <p>6 superimposing the -- in this case we're looking at 1A,</p> <p>7 the faux tree, that the intent is certainly not to</p> <p>8 demonstrate that what you're seeing at 1A is precisely</p> <p>9 what you're going to see if the application is</p> <p>10 approved. What the intent is, to be flat out, is to</p> <p>11 show the approximate location of where the cell tower</p> <p>12 is going to be constructed, and at a particular height</p> <p>13 that he has said so far is 150 feet, but he's going to</p> <p>14 check his notes.</p> <p>15 THE WITNESS: I did.</p> <p>16 MR. SIMON: What's that?</p> <p>17 THE WITNESS: I checked my e-mails and</p> <p>18 originally what we had discussed was 120 feet. That's</p> <p>19 what that number was based on from the drawings.</p> <p>20 MR. SIMON: So what he has done is he has</p> <p>21 superimposed cell tower images at approximately -- it's</p> <p>22 not exact, certainly -- a 120 feet that he was starting</p> <p>23 to explain how he determined to do that and how he</p> <p>24 actually did that. And he started talking about his</p> <p>25 experience with drone photography, et cetera, to assist</p>	<p style="text-align: right;">Page 38</p> <p>1 the Board in understanding a little bit, if not a lot a</p> <p>2 bit, as to what a cell tower at the DPW yard may look</p> <p>3 like from these various property locations.</p> <p>4 So it is not precise. It's not intended to</p> <p>5 be precise. He's not an expert witness other than what</p> <p>6 he's going to be testifying to in terms of how he</p> <p>7 determined to superimposed the various towers at</p> <p>8 120 feet. And certainly his testimony is subject to</p> <p>9 cross-examination, certainly, but again it is not</p> <p>10 intended to be precisely the height, the actual height</p> <p>11 is going to be shown, but rather just to show the</p> <p>12 Board, you know, almost in a general sense what the</p> <p>13 tower location would look like in relation to these</p> <p>14 property locations.</p> <p>15 BOARD MEMBER ROSENBAUM: My understanding</p> <p>16 is there's no math involved in this then. So it could</p> <p>17 be half the height of the picture, or it could be</p> <p>18 double the height of the picture.</p> <p>19 MR. SIMON: Well, the witness will testify</p> <p>20 to that. And then, and the Board -- look, the rules of</p> <p>21 evidence are not to apply to Board of Adjustment</p> <p>22 proceedings -- technical rules of evidence are not to</p> <p>23 apply to Board of Adjustment proceedings. And</p> <p>24 certainly the Board can take his testimony and the</p> <p>25 photos that are being submitted for what it is.</p>
<p style="text-align: right;">Page 39</p> <p>1 And I certainly would also proffer that</p> <p>2 given that the Board is intending to conduct a site</p> <p>3 visit which is great which will include these</p> <p>4 properties, I believe, that the Board members are going</p> <p>5 to make their own conclusions and determinations, but I</p> <p>6 do respectfully contend that going through these</p> <p>7 photographs and accepting the testimony for what it is</p> <p>8 may assist the Board, especially with regard to the</p> <p>9 contemplated and upcoming site visit, in terms of what</p> <p>10 they might expect to see. And as we talked about a few</p> <p>11 moments ago, additional information the Board may want</p> <p>12 us to provide to the Board in advance of the site</p> <p>13 visit.</p> <p>14 MR. SCHNEIDER: I'll make one comment, Mr.</p> <p>15 Chairman. Mr. Simon by his own admission said that the</p> <p>16 photos aren't intended to assimilate what the proposed</p> <p>17 tower is going to look like.</p> <p>18 MR. SIMON: Precisely.</p> <p>19 MR. SCHNEIDER: So what's the point of the</p> <p>20 exercise?</p> <p>21 MR. MLENAK: Rob, can you just try</p> <p>22 to explain -- what is the probative value of these</p> <p>23 exhibits if they're not intended to show precisely what</p> <p>24 the view of the tower will be?</p> <p>25 MR. SIMON: The probative value is to show</p>	<p style="text-align: right;">Page 40</p> <p>1 what a tower at the DPW yard at an approximate height</p> <p>2 of 120 feet is going to look like from these various</p> <p>3 properties. That's exactly what it is. And if a Board</p> <p>4 member ultimately concludes that based on the testimony</p> <p>5 that was provided by Mr. Masters, which I would contend</p> <p>6 was minimal with regard to how the photo depiction in</p> <p>7 the visual impact study was done, that the Board's</p> <p>8 going to assess and put its own weight to the various</p> <p>9 testimony of the witnesses.</p> <p>10 Again, this is to assist the Board,</p> <p>11 especially given the upcoming site visit, as to what</p> <p>12 the -- what we believe the tower will or could look</p> <p>13 like in relation to these various properties.</p> <p>14 BOARD MEMBER ROSENBAUM: Rob, you talked</p> <p>15 about 120 feet several times. We don't know that that</p> <p>16 picture depicts 120 feet unless you show the math</p> <p>17 behind it. It's simple trigonometry.</p> <p>18 MR. SIMON: I understand that. I'm going</p> <p>19 to ask the witness about how he determined to put it at</p> <p>20 120 feet, and why he believes this depicted at 120</p> <p>21 feet. And then the Board will accept that testimony or</p> <p>22 reject it or otherwise.</p> <p>23 BOARD MEMBER NEWLIN: Rob, I'm sorry. Can</p> <p>24 I ask a few questions for you before we go?</p> <p>25 MR. SIMON: Of course.</p>

<p style="text-align: right;">Page 41</p> <p>1 BOARD MEMBER NEWLIN: Number one, you use</p> <p>2 this word precise, not precise, that's really not</p> <p>3 acceptable to me because I don't know what that means.</p> <p>4 Will you be able to say plus or minus, some kind of</p> <p>5 quantitative measure how seriously we can take this</p> <p>6 image? Is it plus or minus? You know, I can't tell if</p> <p>7 the location actually is where it is vertically, or it</p> <p>8 shifts, you know, some measurement to the left or the</p> <p>9 right.</p> <p>10 I can't tell if the same is true</p> <p>11 vertically. So precise, of course it's not precise.</p> <p>12 Verizon did simulations. They weren't precise, but</p> <p>13 they were -- they seemed to have a lot of integrity, so</p> <p>14 you can really rely on them, at least the testimony</p> <p>15 supports that. I don't get that here. I think you</p> <p>16 need to do that.</p> <p>17 Number two, in terms of expertise. Does</p> <p>18 your -- does your photographer -- granted he clearly</p> <p>19 has expertise in photography. What expertise does he</p> <p>20 have in simulations. I'd like to hear his expertise on</p> <p>21 his ability to actually put, you know, create those</p> <p>22 simulations similar to what Eric was saying. What</p> <p>23 expertise does he have in that. And if he doesn't have</p> <p>24 any expertise then I'm not sure why we're looking at</p> <p>25 this.</p>	<p style="text-align: right;">Page 42</p> <p>1 THE WITNESS: Are you asking me directly?</p> <p>2 MR. SIMON: Yeah, I'd be happy to. So,</p> <p>3 Mike --</p> <p>4 BOARD MEMBER NEWLIN: This is for Rob.</p> <p>5 MR. SIMON: Yes. I apologize. Can I -- I</p> <p>6 would like to ask the witness, I mean, I don't believe</p> <p>7 that Mr. Masters exhibited in any of his testimony any</p> <p>8 expertise in simulations. With that being said, I</p> <p>9 certainly -- and Mike's been on the line -- I'd like to</p> <p>10 ask him these questions. I mean, I think they're fair</p> <p>11 questions, of course.</p> <p>12 MR. SCHNEIDER: Let me make one comment</p> <p>13 before we mischaracterize Mr. Masters' testimony. And</p> <p>14 now I'm in a dilemma because it's now a quarter after</p> <p>15 ten and we've now taken a half hour on a frankly a</p> <p>16 witness that's not going to have any probative value,</p> <p>17 but that being said I just want to remind everyone that</p> <p>18 when we try to characterize or compare it to the visual</p> <p>19 analysis prepared by Mr. Masters, let us all recall</p> <p>20 that the visual analysis that was prepared by Mr.</p> <p>21 Masters was based on a crane test. That's the critical</p> <p>22 difference, and I think that's what Mr. Newlin is</p> <p>23 getting together.</p> <p>24 Mr. Masters didn't just draw a 120 or a</p> <p>25 hundred foot tower. It was based on a crane at a</p>
<p style="text-align: right;">Page 43</p> <p>1 specified height. There's a bench mark that was</p> <p>2 utilized to determine the height. That's what's absent</p> <p>3 here. That's the distinction, let alone the expertise</p> <p>4 that Mr. Masters compared to the present witness. But</p> <p>5 we've taken a lot of time. I would respectfully</p> <p>6 suggest, Mr. Mlenak, Mr. Chairman, that we resolve this</p> <p>7 issue quickly, because otherwise we're going to be 20</p> <p>8 minutes in and we're not going to get to Mr. Speck</p> <p>9 tonight.</p> <p>10 MR. MLENAK: Well, what I'm going to</p> <p>11 suggest is that Mr. Simon spend a minute or two asking</p> <p>12 whatever questions he thinks are going to lay the</p> <p>13 foundation for the superimposition of these images and</p> <p>14 then we can have a discussion with the Board whether</p> <p>15 it's worth considering these exhibits or not.</p> <p>16 MR. SIMON: Fair enough.</p> <p>17 BY MR. SIMON:</p> <p>18 Q. So Mr. Einreinhof, you've heard some of the</p> <p>19 comments and concerns of the Board members and some of</p> <p>20 the colloquy. You've been present for that; correct?</p> <p>21 A. Yes.</p> <p>22 Q. And there were some questions about how you</p> <p>23 actually went about superimposing or providing a</p> <p>24 simulation of the location of the tower, and you just</p> <p>25 stated at 120 feet. Can you please describe in detail</p>	<p style="text-align: right;">Page 44</p> <p>1 how you went about actually creating the superimposed</p> <p>2 image on these photographs that you took?</p> <p>3 A. Okay. When I first arrived at Harsh's</p> <p>4 home, at this residence here, the image we're looking</p> <p>5 at, in the front of his home by his gate he showed me</p> <p>6 an image of a crane. I don't know if it's the crane</p> <p>7 that you're talking about. The crane test where there</p> <p>8 was a crane showing the 120 feet. We then walked</p> <p>9 around the back of the yard and then I determined</p> <p>10 looking from the first images where the trees were for</p> <p>11 where the crane was using those. We walked around the</p> <p>12 back of the home and saw the same trees, and that's</p> <p>13 where the location was determined for the crane. He</p> <p>14 had also told me that that's exactly the spot where he</p> <p>15 saw the crane from his backyard.</p> <p>16 Q. So let's back up --</p> <p>17 A. So the height is determined by the crane.</p> <p>18 Q. Wait. Wait. Hold on. So in terms of your</p> <p>19 testimony this evening, you determined the location and</p> <p>20 the height of the tower based on images of a crane test</p> <p>21 that was conducted with photographs provided with</p> <p>22 regard to this application. Is that your</p> <p>23 understanding?</p> <p>24 A. Yes. That's the property, yes.</p> <p>25 Q. Right. And the crane that was shown to you</p>

<p style="text-align: right;">Page 45</p> <p>1 in the photographs it was the crane that was located at  2 the DPW yard; correct?  3 A. Right. Yes. It was at the location of  4 where the proposed tower's going to be, yes.  5 Q. And the tower was at a particular height,  6 correct, or the crane, excuse me, was a particular  7 height, correct, in the photograph, right?  8 A. Yes.  9 Q. And wasn't that photograph from the -- from  10 a crane that was raised at the property, and I believe  11 -- do you recall the date of the photograph that showed  12 the crane?  13 A. The date of the photo that showed the  14 crane?  15 Q. Yes. The photo that you saw of the crane?  16 A. I don't know what the date was offhand of  17 that. I don't know the date of that photo.  18 Q. Okay. But --  19 A. I was shown it on the 17th.  20 Q. And you were told, though, that the height  21 of the crane was 120 feet?  22 A. Yes.  23 Q. Then what did you do after that, once you  24 viewed the property, the DPW yard, you viewed the  25 photograph that showed or depicted the crane at a</p>	<p style="text-align: right;">Page 46</p> <p>1 particular location and at a particular height to  2 create your simulation, what did you do next?  3 A. I then used the image of the crane to  4 determine -- I mean, depending on which property, which  5 image I was superimposing this cell tower onto, how  6 much closer or farther away we were, depending on which  7 property I was working on, which image from which  8 property.  9 Q. And have you in your role as a professional  10 photographer, have you had occasion to superimpose  11 images onto your photographs or provide simulations as  12 you're doing this evening?  13 A. Yes.  14 Q. And in what context or what -- what's some  15 examples of when you do simulations?  16 A. For other -- for product photography I do,  17 I'll do different simulations. I don't know if that's  18 what you're trying to ask.  19 MR. MLENAK: Can I just ask? Have you ever  20 done a superimposition from a photo of a crane test to  21 superimpose a cell phone tower?  22 THE WITNESS: No.  23 MR. MLENAK: Okay.  24 THE WITNESS: No. I have not.  25 MR. SIMON: But you've done simulations</p>
<p style="text-align: right;">Page 47</p> <p>1 where you've superimposed images on photographs;  2 correct?  3 THE WITNESS: Yes.  4 BOARD MEMBER NEWLIN: Scientifically, Rob,  5 scientifically, you know, superimposing images anybody  6 can do that. There's all sort of applications. The  7 question was, was this done scientifically? I haven't  8 heard that. It's really hard for us to have any  9 faith --  10 MR. SIMON: Well, I mean, I will tell you  11 that I do not believe at all that Mr. Masters provided  12 any testimony to demonstrate that he did anything in  13 terms of his simulations, quote-unquote -- which is a  14 fair question, of course, Alf -- "scientifically." But  15 I'll ask Mr. Einreinhof --  16 MR. MLENAK: Hold on, Rob.  17 BOARD MEMBER NEWLIN: But that was reality,  18 Rob. Those are real pictures.  19 MR. MLENAK: And you were free to  20 cross-examine Mr. Masters about that if you felt there  21 was an issue there. But what I have just heard was  22 that this was done from an individual who gave a photo  23 to Mr. Einreinhof of a photo he didn't take, of a crane  24 test he wasn't there for, of a photo that we're not  25 provided to examine or have testimony regarding, of a</p>	<p style="text-align: right;">Page 48</p> <p>1 height that he's not sure of, from a location that  2 cannot be precise. So those are the struggle I think  3 we need to get over from Mr. Einreinhof.  4 BY MR. SIMON:  5 Q. Okay. So Mr. Einreinhof, is there anything  6 else you want to add at this point in terms of  7 responding to the concerns of the Board members, Board  8 professionals, in terms of the accuracy of what your --  9 what you're showing, or whether it is a value to this  10 Board in assessing the view of a cell tower from the  11 DPW yard as seen from various properties?  12 A. The superimposing of the cell tower onto  13 the image we went to great lengths to make sure we were  14 in the same location as from the other image based on  15 the height of the home and the trees that were on this  16 property. And then from that image, from the crane I  17 recreated that image and superimposed the cell tower.  18 So as far as height it was pretty accurate  19 and pretty scientific based on the other image. I  20 can't testify regarding that other image. Yes, you're  21 absolutely right. I didn't take that image.  22 Q. Right. But based on -- do you have  23 experience, as you did in this case, of taking other  24 photographs or images, to Mr. Mlenak's point, including  25 ones that you have not taken and then using that to</p>

<p style="text-align: right;">Page 49</p> <p>1 create a simulation and superimposing an image onto a</p> <p>2 photograph?</p> <p>3 A. Yes.</p> <p>4 Q. And when you've done that, do you believe</p> <p>5 as in this case with a series of 13 photographs, do you</p> <p>6 believe that the images that you're showing in terms of</p> <p>7 those simulated images are of -- are accurate -- do</p> <p>8 accurately show what a cell tower at 120 feet will look</p> <p>9 like from those property locations?</p> <p>10 A. Yes, I do.</p> <p>11 MR. SIMON: So, at this point, I guess I'm</p> <p>12 going to direct this to Mr. Chairman and Mr. Mlenak, I</p> <p>13 do contend that certainly that the photographs that</p> <p>14 we're about to show here are of probative value to the</p> <p>15 Board, especially given that the Board has already</p> <p>16 decided to go out and do a site visit which will</p> <p>17 include these properties, but I believe that showing</p> <p>18 these photographs will provide a good basis and</p> <p>19 foundation for the Board at the time they do the site</p> <p>20 visit to almost get a preview of the view of the DPW</p> <p>21 location from these properties, and what a cell tower</p> <p>22 would look like at 120 feet from these locations.</p> <p>23 MR. SCHNEIDER: I don't want to belabor the</p> <p>24 point. I don't think an appropriate foundation has</p> <p>25 been laid as its admissibility. Mr. Simon acknowledges</p>	<p style="text-align: right;">Page 50</p> <p>1 it's not intended to represent or assimilate what the</p> <p>2 proposed facility would look like. So to me it has no</p> <p>3 probative value. There's no foundation laid. I think</p> <p>4 we should get on with the testimony of Mr. Steck and</p> <p>5 deny the admissibility of Exhibit O-1.</p> <p>6 CHAIRMAN FLANAGAN: What do you think,</p> <p>7 Steve? Is it up to the Board whether we accept these</p> <p>8 or not? Whether we continue with these photographs or</p> <p>9 not?</p> <p>10 MR. MLENAK: It is. The Board has a number</p> <p>11 of competing interests and you have to evaluate. One</p> <p>12 of them is obviously giving all interested parties</p> <p>13 their fair share and being able to present a case in</p> <p>14 objection to the application, but on the flip side you</p> <p>15 also have a duty under the law, both state and Federal</p> <p>16 law, to hear this application in an expedient manner.</p> <p>17 And you can determine whether what is being presented</p> <p>18 to you is going to provide you a probative value to the</p> <p>19 Board or not.</p> <p>20 There's been a lot of testimony and</p> <p>21 questions that Mr. Simon's asked the witness, although</p> <p>22 he presented them as a fact witness a lot of the</p> <p>23 questions dealt with his expertise and how he did</p> <p>24 something. So whether these exhibits are being</p> <p>25 presented as factual which would be the photographs or</p>
<p style="text-align: right;">Page 51</p> <p>1 as something else is for the Board to determine whether</p> <p>2 there's any probative value in listening to this</p> <p>3 testimony.</p> <p>4 One last thing I'll say. While the Board</p> <p>5 is not subject to the general rules of evidence that</p> <p>6 you would ordinarily in a Court setting, and generally</p> <p>7 you're free to accept or consider things that in a</p> <p>8 courtroom otherwise would not be admissible. At the</p> <p>9 same time you're not free to deny or approve</p> <p>10 applications based on non-credible information if they</p> <p>11 so found that. So the Board can make that</p> <p>12 determination whether there's any probative value to</p> <p>13 this testimony or not.</p> <p>14 CHAIRMAN FLANAGAN: Alf and Aric, I'll</p> <p>15 agree with you. I have a lot of questions about what</p> <p>16 we're looking at here, right. So these are renderings</p> <p>17 based on not an actual photograph, when the crane was</p> <p>18 there. And as I recall Mr. Masters testified he took</p> <p>19 photos while the crane was there, which established the</p> <p>20 height of the crane and the exact location of the</p> <p>21 crane. And then photo shopped out the crane and added</p> <p>22 the tower. That made sense to me.</p> <p>23 What we're seeing here, it's off a photo</p> <p>24 someone else took from hopefully the same location,</p> <p>25 maybe it was, maybe it wasn't. And if the camera was</p>	<p style="text-align: right;">Page 52</p> <p>1 higher or lower that would make a difference in what</p> <p>2 you saw. So I don't -- I find this certainly less</p> <p>3 technically accurate, and I think as Mr. Simon said,</p> <p>4 it's not meant to represent where the tower's going to</p> <p>5 be or how high it's going to be. So I don't see the</p> <p>6 value in looking at photos in the general direction</p> <p>7 that's going to roughly depict where a tower might be.</p> <p>8 I balance that, Alf, with, you know, you</p> <p>9 had said earlier in the night you want to have a binder</p> <p>10 or some documentation before we went on this visit, you</p> <p>11 know, do you think that these photos would suit that</p> <p>12 purpose? If so, let's continue listening to it. If</p> <p>13 not, I don't see the value of it outside of that.</p> <p>14 BOARD MEMBER NEWLIN: So Mike, I would say</p> <p>15 based on what I heard there's a missing link, and I</p> <p>16 guess it's up to Rob if he could produce it. These</p> <p>17 were created from other photographs I understand it,</p> <p>18 which actually were a hundred percent real from a crane</p> <p>19 test, and those photos were used to create these</p> <p>20 photos.</p> <p>21 MR. SIMON: Correct.</p> <p>22 BOARD MEMBER NEWLIN: I mean, you have to</p> <p>23 show that, because I hear what you're saying, but I</p> <p>24 want to see it to have a sense.</p> <p>25 MR. SIMON: Okay.</p>

<p style="text-align: right;">Page 53</p> <p>1 BOARD MEMBER NEWLIN: I'm not saying you 2 should or shouldn't but that's not being shown. So 3 that makes me think I have just have no way to 4 understand how useful this, but maybe you just want to 5 go through these. 6 MR. SIMON: Well, this is what I think I'll 7 do. 8 BOARD MEMBER NEWLIN: It's pretty weak. 9 MR. SIMON: You are correct in that's 10 certainly a fair request. And it's a little difficult 11 admittedly doing this via Zoom. Normally, I would walk 12 over to the witness, you know, he would pull it out of 13 his file. I'd mark it as an exhibit, bring it over, 14 but I can't do that tonight. I don't think it's fair 15 to the Board that based on the comments that the Board 16 members are making at this point to continue with this 17 particular witness without at least providing that 18 photograph because it's been asked for. 19 So what I think -- what I'd like to do is 20 kind of reserve on this O-1, and I'll move onto O-2 and 21 O-3, with my intention, frankly, to come back at a 22 future meeting, probably the next meeting with that 23 additional piece of information that we can mark and I 24 can show everyone in real time live, and hopefully the 25 Board will see and agree that ultimately -- that what</p>	<p style="text-align: right;">Page 54</p> <p>1 we want to present via O-1 is probative information and 2 evidence that is relevant to this application and would 3 assist the Board in making this determination. 4 CHAIRMAN FLANAGAN: That makes sense. What 5 are O-2 and O-3, are they more photographs along these 6 lines? 7 MR. SIMON: Can we pull up O-2, Lori? And 8 also, is Christel Engel in the audience? 9 BOARD MEMBER ROSENBAUM: Rob, back on O-1 10 for one second. I think what will be supportive and 11 helpful as well is that there's math on this. That we 12 have a survey that says it's X number of feet from here 13 to where the proposed location is, therefore you know 14 the height, you know the angles, and then you can have 15 some backing up showing this is actually how it will 16 look. And I don't see that right now. That gives me 17 pause in terms of, yes, I see it, there would be a 18 tower, it would be visible, I get that, but I don't 19 know if it's half the height or twice the height of 20 what you show in the pictures. 21 MR. SIMON: Sure. We'll provide as much 22 additional information certainly as we can and we'll 23 let the Board make that determination based on that. 24 Thank you. Appreciate that additional input. 25 SECRETARY TAGLAIRINO: Rob, is this the</p>
<p style="text-align: right;">Page 55</p> <p>1 picture that you were looking for or did I not -- do I 2 have to go out of sharing and go back in? Is this the 3 aerial that you're looking for? 4 MR. SIMON: No, I think -- 5 MR. MLENAK: It says O-2 in the upper 6 right-hand corner. 7 MR. SIMON: Yes. So this is O-2, four 8 pages. That's correct. 9 SECRETARY TAGLAIRINO: Look at that magic. 10 Okay. Great. 11 (Exhibit O-2 and O-3, photographs, are 12 received and marked.) 13 MR. SIMON: So I don't know if Ms. Engel's 14 in the audience? 15 MR. SAGANIC: This is Livio Saganic. I'm 16 the husband. 17 MR. SIMON: Oh, yes. Livio, hi. How are 18 you? 19 MR. SAGANIC: I'm the one who actually took 20 the photographs. 21 MR. MLENAK: Hold on. 22 MR. SIMON: Hold on a second. Can we get 23 this witness sworn, Mr. Mlenak? 24 MR. MLENAK: Yes. Please raise your right 25 hand. Do you swear to the tell the truth, the whole</p>	<p style="text-align: right;">Page 56</p> <p>1 truth, and nothing but the truth? 2 THE WITNESS: I do. 3 MR. MLENAK: Please state your full name, 4 spell your last name, and provide your address, please. 5 MR. SAGANIC: Livio Saganic, S-a-g-a-n-i-c, 6 32 Millbrook Road. 7 L I V I O S A G A N I C, having been duly 8 sworn, testifies as follows: 9 EXAMINATION BY MR. SIMON: 10 Q. And Mr. Saganic, I'm going to show you what 11 has been marked for Identification as O-2 consisting of 12 four pages. The first page consisting of an aerial 13 photo from Google Images with some numbers on them 14 identifying various photograph locations. Do you see 15 that? 16 A. Yes, that's my property. 17 Q. Okay. When you say "That's my property," 18 the numbers that are shown there, those are on your 19 property, right? 20 A. Yes. 32, yes. 21 Q. Right. And what's the address of your 22 property, Sir? 23 A. 32 Millbrook Road. 24 Q. And so did you have occasion to take some 25 photographs from your property at 32 Millbrook Road of</p>

<p style="text-align: right;">Page 57</p> <p>1 a date when a crane was located at the DPW yard at a 2 particular height?</p> <p>3 A. Yeah. I took probably hundreds of photos, 4 both the first time around and the second time around.</p> <p>5 Q. Okay. So let's stop right there. When you 6 say the first time around, what are you referring to, 7 Sir?</p> <p>8 A. When the first crane test was done, which 9 was I guess is in 18, I suppose, 2018. And then 10 Valentine's Day, February 14th of 2019.</p> <p>11 Q. 2019 or 2020?</p> <p>12 A. Was it '20 or was it '19? In any case it 13 was the second crane test. It was February 14th.</p> <p>14 Q. Okay. February 14th. So we're going to 15 show a series of three photographs now. And they're 16 taken from the location that's shown on the first page 17 of O-2?</p> <p>18 A. Yes.</p> <p>19 MR. SIMON: Okay. So Lori, can we go to 20 the next photo, please?</p> <p>21 BY MR. SIMON:</p> <p>22 Q. So Mr. Saganic, what are we looking at? 23 And first of all, did you take this photograph?</p> <p>24 A. Yes, I have.</p> <p>25 Q. And what was the date when this photograph</p>	<p style="text-align: right;">Page 58</p> <p>1 was taken?</p> <p>2 A. February 14th.</p> <p>3 Q. And you believe that's of 2020?</p> <p>4 A. Yes.</p> <p>5 Q. And this is taken from your property?</p> <p>6 A. This is taken directly in front of my front 7 yard. When I exit my house this is exactly the view 8 that I have. And this is an unadulterated image.</p> <p>9 Q. So you were standing on the ground when you 10 took this photograph?</p> <p>11 A. Yes.</p> <p>12 Q. And what time was this photograph taken, do 13 you recall, approximately?</p> <p>14 A. Well, it was morning. You can see by the 15 shadows, because this is facing west, and the sun was 16 coming out, you know, like mid-morning. It was 17 probably around 10 o'clock or so. So when the sun was 18 coming from the right-hand side.</p> <p>19 Q. So can -- and you believe that this 20 photograph accurately depicts what you saw at that time 21 when you took the photograph; correct?</p> <p>22 A. It's a hundred percent the depiction.</p> <p>23 Actually, I should mention that I'm an art professor 24 and I studied photography and I thought photography. 25 So I am familiar with this particular endeavor.</p>
<p style="text-align: right;">Page 59</p> <p>1 Q. When you say you taught, where did you 2 teach photography?</p> <p>3 A. I taught fine Arts at Drew University for 4 36 years.</p> <p>5 Q. And that included teaching photography; 6 correct?</p> <p>7 A. Yes. I have taught photography. It wasn't 8 my major domain, but I did teach photography, yes.</p> <p>9 MR. SIMON: Let's go on to the next 10 photograph, Lori.</p> <p>11 Q. So this is three of four, the third page of 12 this O-2. And Mr. Saganic, can you please identify 13 what this is, please, that we're looking at?</p> <p>14 A. Yes. This is looking from my front yard, 15 again, in the direction of DPW. And those are my 16 hedges that I'm very proud of. And the building that 17 you see there on the left that's my neighbor, Neil 18 O'Donnell's barn and house to the right.</p> <p>19 Q. So Mr. O'Donnell's property is where, the 20 building to the left?</p> <p>21 A. Yes. Exactly. Right over the hedge. The 22 building that you see on the left that's Neil 23 O'Donnell's property. He's right between my property 24 and DPW.</p> <p>25 Q. And this property was taken on the same</p>	<p style="text-align: right;">Page 60</p> <p>1 date as the prior photograph?</p> <p>2 A. Absolutely.</p> <p>3 Q. And this photograph was taken by you?</p> <p>4 A. Of course.</p> <p>5 Q. And do you believe that it accurately 6 depicts what you saw at the time?</p> <p>7 A. It's a hundred percent true.</p> <p>8 Q. Can we go to the fourth to last photograph?</p> <p>9 BOARD MEMBER NEWLIN: Rob, can you remind 10 us what the factual height of the crane is?</p> <p>11 MR. SIMON: 120 feet.</p> <p>12 BOARD MEMBER NEWLIN: Very top that's a 13 120 feet?</p> <p>14 MR. SIMON: I believe so, yes.</p> <p>15 BOARD MEMBER NEWLIN: And the little red 16 flag is meaningless, whatever that red thing is?</p> <p>17 MR. SIMON: I don't know if that's at a 18 hundred feet, but -- I don't know.</p> <p>19 THE WITNESS: No, this was -- I spoke to 20 the crane operator because I spend some time at the 21 site, and, you know --</p> <p>22 BOARD MEMBER NEWLIN: Okay. So just state 23 a hundred percent. So it's 120 feet at the very top of 24 the crane, is that absolutely true?</p> <p>25 THE WITNESS: Yes.</p>



<p style="text-align: right;">Page 61</p> <p>1 BOARD MEMBER NEWLIN: Okay. Thanks.</p> <p>2 MR. SIMON: And moving on -- I'm sorry.</p> <p>3 Moving onto the last photograph. So Mr. Saganic, can</p> <p>4 you please identify what this last photograph is?</p> <p>5 THE WITNESS: This is the space between my</p> <p>6 garage and my house and it's a covered walkway. And</p> <p>7 again, it's looking at, you know, towards the front of</p> <p>8 my yard. And we were to see that space in between</p> <p>9 right in the center that's Neil O'Donnell's house, and</p> <p>10 the crane is right behind that house. And this is what</p> <p>11 I see right in my front yard.</p> <p>12 Q. And again this photograph was taken on the</p> <p>13 day of the crane test on February 14th, 2020?</p> <p>14 A. Exactly, yes. And as you can see, all the</p> <p>15 leaves are down and the grass is dead and the flowers</p> <p>16 are not there.</p> <p>17 Q. And you believe this photograph accurately</p> <p>18 depicts what you saw on that particular date at that</p> <p>19 particular time; correct?</p> <p>20 A. Absolutely.</p> <p>21 Q. In terms of the crane location?</p> <p>22 A. Yes. I also have many more pictures from</p> <p>23 the Tunis-Ellicks House. I went all around taking</p> <p>24 photographs on this particular morning. So, yeah.</p> <p>25 MR. SIMON: I have nothing further for this</p>	<p style="text-align: right;">Page 62</p> <p>1 witness at this time with regard to O-2.</p> <p>2 BOARD MEMBER NEWLIN: And Rob, why didn't</p> <p>3 you submit the other pictures?</p> <p>4 MR. SIMON: Yeah, Alf, we can certainly</p> <p>5 submit additional pictures. These are just, you know,</p> <p>6 three photographs that are representative of Mr.</p> <p>7 Saganic's view from his property at 32 Millbrook Road.</p> <p>8 Certainly if the Board wishes to have additional</p> <p>9 photographs based on the witnesses testimony they can</p> <p>10 be supplied, I'm sure.</p> <p>11 BOARD MEMBER NEWLIN: Okay. If it doesn't</p> <p>12 slow anything down and it doesn't cost anything I don't</p> <p>13 see why it hurts.</p> <p>14 MR. SIMON: Okay.</p> <p>15 CHAIRMAN FLANAGAN: All right. Any members</p> <p>16 of the Board have any questions for Mr. Saganic?</p> <p>17 BOARD MEMBER ADDONIZIO: I do. Based on</p> <p>18 previous testimony from the Chief of Police, Mr.</p> <p>19 Saganic, do you have concerns for the use of cell</p> <p>20 phones in the case of emergencies for Harding Township</p> <p>21 schools?</p> <p>22 MR. SAGANIC: Not at all, but my son went</p> <p>23 there for eight years, and I don't recall a single</p> <p>24 instance when there was an issue. And I certainly</p> <p>25 never had an issue with reception here. I really don't</p>
<p style="text-align: right;">Page 63</p> <p>1 quite understand why we're actually doing this, but</p> <p>2 that's another issue. That's for another day.</p> <p>3 BOARD MEMBER ADDONIZIO: Of course. Just</p> <p>4 based on the Chief of Police's testimony?</p> <p>5 MR. SAGANIC: I don't really believe that</p> <p>6 that's a pressing matter.</p> <p>7 BOARD MEMBER ADDONIZIO: Okay. Thank you.</p> <p>8 CHAIRMAN FLANAGAN: Anyone else from the</p> <p>9 Board have any questions? (No response.)</p> <p>10 Mr. Schneider, do you have any questions</p> <p>11 for the witness?</p> <p>12 MR. SCHNEIDER: Just one.</p> <p>13 BY MR. SCHNEIDER:</p> <p>14 Q. Sir, how did you confirm what the height of</p> <p>15 the tower was, the crane I should say?</p> <p>16 A. Well, because I spoke to the operator</p> <p>17 there.</p> <p>18 Q. The operator meaning the crane operator?</p> <p>19 A. Correct.</p> <p>20 Q. And you confirmed with him that the height</p> <p>21 was 120?</p> <p>22 A. Yes.</p> <p>23 MR. SCHNEIDER: That's it. That's all I</p> <p>24 have.</p> <p>25 CHAIRMAN FLANAGAN: Any member of the</p>	<p style="text-align: right;">Page 64</p> <p>1 public have any questions? (No response.) Okay Mr.</p> <p>2 Simon.</p> <p>3 Mr. Saganic, thank you very much for</p> <p>4 joining us tonight. We'll see you at the site</p> <p>5 inspections.</p> <p>6 MR. SAGANIC: If I can just say that these</p> <p>7 are concrete views and I think that they're</p> <p>8 devastating. But in any case, thank you very much for</p> <p>9 the opportunity.</p> <p>10 CHAIRMAN FLANAGAN: Thank you. And we'll</p> <p>11 see you on the site inspections.</p> <p>12 Mr. Simon, what's next for us?</p> <p>13 MR. SIMON: So let's go to O-3 and have Mr.</p> <p>14 Bansal, Harsh Bansal sworn in, please.</p> <p>15 MR. BANSAL: Hi. This is Harsh Bansal.</p> <p>16 CHAIRMAN FLANAGAN: Steve, are you on the</p> <p>17 line?</p> <p>18 MR. MLENAK: Can you raise your right hand?</p> <p>19 Can you swear to tell the truth, the whole truth, and</p> <p>20 nothing but the truth?</p> <p>21 MR. BANSAL: I do.</p> <p>22 MR. MLENAK: Please state your full name,</p> <p>23 spell your last name, and provide your address.</p> <p>24 MR. BANSAL: So my name is Harsh Bansal,</p> <p>25 that is B-a-n-s-a-l, and I am at 6 Copper Tree Lane.</p>

<p style="text-align: right;">Page 65</p> <p>1 H A R S H B A N S A L, having been duly  2 sworn, testified as follows:  3 EXAMINATION BY MR. SIMON:  4 Q. Mr. Bansal, I'm showing you what's been  5 marked as O-3, which consists of two pages. Are you  6 familiar with this document?  7 A. Yes, I am.  8 Q. And the first -- just to move things along.  9 The first page is a Google aerial image of the area in  10 question and it depicts your property as 6C?  11 A. Yes, it does.  12 Q. And the "S" is located on this image on the  13 first page of two, that's the location of the DPW  14 toward yard?  15 A. Yes. That is the location of the DPW yard,  16 yes.  17 Q. So let's move onto the second page three of  18 O-3.  19 So Mr. Bansal, I'm showing you the second  20 page of what I marked for Identification as O-3. What  21 are we looking at here?  22 A. We are looking at a photograph that I took  23 on my cell phone at roughly a quarter to two in the  24 afternoon on February 14th on 2020, of the crane test  25 that was done at the DPW site. This is from my</p>	<p style="text-align: right;">Page 66</p> <p>1 backyard. And I understand I did not go and ask the  2 crane operator, but I was told by other testimony that  3 the crane shown mere was 120 feet. So that's how this  4 will -- that tower will look like from my property,  5 from my backyard, from my location.  6 Q. And --  7 MR. SCHNEIDER: I object -- wait. Hold on.  8 Objection. How could the witness testify that this is  9 depicting 120 based on what someone else told him what  10 the height of the crane was?  11 THE WITNESS: No. I'm saying by the  12 testimony that -- the testimony that is entered into  13 the record here was the crane test that day was  14 120 feet, Mr. Schneider. That's what I'm alluding to.  15 I'm not talking about someone else.  16 MR. SIMON: Let's keep this simple.  17 BY MR. SIMON:  18 Q. Mr. Bansal, this photograph was taken by  19 you; correct?  20 A. Absolutely, it was.  21 Q. And it was taken on February 14th, 2020;  22 correct?  23 A. That is correct.  24 Q. And I think you just stated it was taken in  25 the afternoon; correct?</p>
<p style="text-align: right;">Page 67</p> <p>1 A. It was taken at -- I'm looking at my cell  2 phone. It shows here taken at 1:44 p.m. on  3 February 14th, 2020.  4 Q. And where were you standing when you took  5 this photograph on your property?  6 A. I was standing in my backyard. I want to  7 say those trees that you see there, that's the edge of  8 my property. Probably somewhere around 70 to 80 feet  9 back from that edge, somewhere in there. Roughly, the  10 6C location that was marked on the previous exhibit.  11 Q. And do you believe that this photograph  12 accurately depicts what you saw on that date, time, and  13 place from your backyard?  14 A. Absolutely it does.  15 Q. In terms of the crane?  16 A. Absolutely it does.  17 Q. And just to confirm, the crane at this time  18 was located at the DPW yard; correct?  19 A. That is correct. I have actually other  20 photographs that I took around just like the previous  21 witness did on that day, and then I walked around and I  22 saw. So I know that the crane was at the DPW site that  23 day.  24 MR. SIMON: Thank you. I have nothing  25 further for this witness.</p>	<p style="text-align: right;">Page 68</p> <p>1 CHAIRMAN FLANAGAN: All right. Any members  2 of the Board have any questions? Mr. Schneider -- go  3 ahead, Tom.  4 BOARD MEMBER ADDONIZIO: Just -- Mr.  5 Bansal, based on the previous testimony from the Chief  6 of Police and the concern for the safety and welfare of  7 the Harding Township School and lack of service there  8 based on what the Chief has testified, do you have any  9 concern for that as well or is it the same?  10 THE WITNESS: No, I don't. I'm able to  11 make all the cell phone calls from my house as I want  12 to. I don't have any concerns.  13 BOARD MEMBER ADDONIZIO: Inside and outside  14 your home?  15 THE WITNESS: Inside and outside my home.  16 BOARD MEMBER ADDONIZIO: Thank you.  17 CHAIRMAN FLANAGAN: Anyone else from the  18 Board? Mr. Bansal, just out of curiosity, do you have  19 Verizon or AT&amp;T as your cell provider?  20 THE WITNESS: I have Verizon now. I had  21 AT&amp;T before. And it's just that my company switched  22 from AT&amp;T to Verizon. And I kept the same phone number  23 when I retired so I have Verizon.  24 Long answer to your question, Mr. Chairman,  25 sorry, but I had AT&amp;T before, no issues. I have</p>

<p style="text-align: right;">Page 69</p> <p>1 Verizon now, no issues. My wife has Verizon, no 2 issues.</p> <p>3 CHAIRMAN FLANAGAN: Okay. Mr. Schneider, 4 do you have any questions for the witness?</p> <p>5 MR. SCHNEIDER: No questions, Mr. Chairman.</p> <p>6 CHAIRMAN FLANAGAN: Any members of the 7 public have any questions? (No response.) All right, 8 Mr. Simon. Mr. Bansal, thank you very much.</p> <p>9 THE WITNESS: Thank you very much, Mr. 10 Chairman. Appreciate the opportunity.</p> <p>11 CHAIRMAN FLANAGAN: And we'll see you at 12 the site visit.</p> <p>13 Mr. Simon, what's next for us? I think we 14 have seven minutes.</p> <p>15 MR. SIMON: Yes. So my suggestion is we 16 take the seven minutes indifference, frankly, to Mr. 17 Schneider and discuss scheduling going forward so that 18 we're all -- I wasn't privy to the conversation that he 19 had with Mr. Mlenak, but of course I was predisposed 20 today. I wasn't available. But that may be of benefit 21 to all Board members, professionals, my team, et 22 cetera.</p> <p>23 CHAIRMAN FLANAGAN: Okay. Well, let's talk 24 scheduling. Mr. Schneider, what were you thinking?</p> <p>25 MR. SCHNEIDER: Well, with no undue respect</p>	<p style="text-align: right;">Page 70</p> <p>1 to the board, I'm frustrated because I don't think we 2 accomplished much tonight. The whole entire 3 proceedings were essentially limited to getting two 4 photographs into evidence.</p> <p>5 The matter under the FCC Shot Clock Order 6 was required to be completed within 150 days of the 7 filing of the application. This Board has been, I 8 think, more than fair to me to date in trying to move 9 the application along, and I think we both mutually 10 recognize the implications of the COVID-19 Pandemic and 11 how it impacted the scheduling.</p> <p>12 That being said, we're now approaching 13 something like 17 or 18 public hearings. And putting 14 aside the Pandemic to year, I think we need to set a 15 fair and reasonable schedule to bring this matter to 16 conclusion.</p> <p>17 I had spoken at length with Mr. Mlenak and 18 my client needs to bring the matter to conclusion. And 19 what I had contemplated, which obviously we weren't 20 able to accomplish tonight, was that we would be able 21 to complete at least the direct testimony of Mr. Steck. 22 Not only didn't we complete the direct testimony of Mr. 23 Steck, we didn't get started on the direct testimony of 24 Mr. Steck, the Applicant's planner. So I think we have 25 lost a month here.</p>
<p style="text-align: right;">Page 71</p> <p>1 The game plan was to have Mr. Steck do his 2 direct tonight, and frankly there was a reasonable 3 opportunity if we got started at -- if we had been able 4 to get to Mr. Steck by 9:45 or ten o'clock Mr. Simon 5 graciously indicated to me he thought about 60 to 70 6 minutes. It all worked out well. By eleven o'clock we 7 could have been done with Mr. Steck, and the game plan 8 would have been to have Mr. Steck come back in July, I 9 will perceive with cross. And then I understand you 10 had other matters on your Agenda, I'm not unmindful of 11 that, to take August for me then reserve the right to 12 recall whatever other witnesses I may need in response 13 to Mr. Steck's testimony, and then you do summations, 14 public comments and a vote in September. I thought 15 that was a realistic time period. In other words, 16 after tonight Mr. Steck, clean up by the Applicant, 17 summation, public comment in September. Doesn't sound 18 -- and we're going to get to that absent us getting 19 some sufficient time to complete Mr. Steck's testimony 20 in July.</p> <p>21 So I would like -- and I'm -- let me make 22 this comment. You, Mr. Chairman, have been more than 23 clear about your unwillingness, and for appropriate 24 reasons, to subject the Board to Special Meetings for 25 this application, especially during the Summer. I can</p>	<p style="text-align: right;">Page 72</p> <p>1 appreciate and respect that. What I'm asking you out 2 of fairness to all parties is that if we can't 3 accommodate special meetings in the Summer that we have 4 to somehow adjust the schedule in a manner to bring the 5 matter to conclusion in September.</p> <p>6 So what I'd like to do is to figure out 7 whether we can at a minimum complete the direct of Mr. 8 Steck in July. If we don't get to do cross because we 9 have other matters on the Agenda have him come back in 10 August. Maybe squeeze in a Special Meeting in 11 September and then bring the matter to conclusion, if 12 necessary, in late September. There's also some 13 scheduling issues that Mr. Simon and I may have in 14 September, but we'll deal with that in September.</p> <p>15 So that's my goal. And I don't think what 16 I'm asking for is either unfair or unreasonable.</p> <p>17 CHAIRMAN FLANAGAN: Let me ask. How long 18 do you think, Mr. Simon, how long do you think Mr. 19 Steck's testimony will be? Mr. Schneider said I think 20 60 to 70 minutes? Is that what you had indicated? Is 21 that what you expect?</p> <p>22 MR. SIMON: Yes. That's what I told Mr. 23 Schneider and Mr. Mlenak when we had a communication 24 about that before tonight.</p> <p>25 CHAIRMAN FLANAGAN: All right. So and Mr.</p>

<p style="text-align: right;">Page 73</p> <p>1 Schneider, how long do you think your cross of Mr. 2 Steck will take? 3 MR. SCHNEIDER: Famous -- probably less 4 than the four hours Rob took to cross-examine Mr. 5 Masters. I would estimate about 45 minutes to an hour. 6 I mean, but you're asking me without having heard the 7 testimony. 8 CHAIRMAN FLANAGAN: No, I understand that. 9 It's not a fair question. 10 MR. SCHNEIDER: So having had the 11 opportunity to cross Mr. Steck previously I'm 12 estimating 45 minutes to an hour depending on what he 13 obviously says on direct. So I think we need to either 14 account for in July or August two hours, give or take, 15 to complete Mr. Steck's testimony. Whether that's both 16 in July and August or not, that remains to be seen. 17 CHAIRMAN FLANAGAN: Okay. And I'm not 18 going to hold you to any amounts of time for the -- 19 within reason for the cross-examination. I know it's 20 not a fair question until you hear the testimony. 21 So it's a challenge, as you know, for us 22 with Special Meetings, particularly in the Summer. 23 What I'd like to think about doing is, and I don't know 24 what the Agenda's going to look like next month or any 25 given month to be honest with you until we get much</p>	<p style="text-align: right;">Page 74</p> <p>1 closer to the date. 2 I think one thing, possibility I want to 3 look into is perhaps we can start the meeting maybe an 4 hour earlier on a regular night, which will give us 5 more time, ideally give us the two hours we need to 6 complete Mr. Steck. So that is something I'll talk to 7 Steve about, and he in turn will talk with the two of 8 you, but that is something I want to look into, just to 9 give you a heads up. 10 So potentially start next month at 6:30 11 instead of 7:30, and assuming I can get the Board 12 members to be there at 6:30, et cetera. 13 MR. MLENAK: Well, it's difficult to do 14 that, because what we're going to be doing in a few 15 minutes is carrying this on the record without further 16 notice. And without certainty of the time it's 17 difficult to do that for the next meeting. But perhaps 18 what we can do is reserve that option for August and 19 September, unless Mr. Schneider has a suggestion. 20 MR. SCHNEIDER: Oh, here's another 21 suggestion. There is a notice issue, but if the Board 22 is willing to start at 6:30 and you have other 23 applicants who are noticing for that meeting you can 24 have those other applicants notice for 6:30, carry this 25 matter to 7:30, with the understanding that we wouldn't</p>
<p style="text-align: right;">Page 75</p> <p>1 start the Verizon at least until 7:30. 2 MR. MLENAK: That is a good suggestion. 3 CHAIRMAN FLANAGAN: Okay. So no 4 guarantees, Mr. Schneider, but I'm going to try to make 5 it happen. I'm going to talk with the Board members 6 and just -- Board, just let Lori know for next month if 7 you can make it at 6:30 as opposed to 7:30. 8 Yes, go ahead, Mr. Simon. 9 MR. SIMON: Mr. Chairman, can I just ask, 10 maybe instead of me asking for a two-second break here 11 maybe if you can bring up Mr. Steck, because obviously 12 he would be next up in terms of testimony, you know, 13 subject to Mr. Einreinhof whom we talked about already. 14 There he is. Great. Because I just want to hear from 15 him directly just in terms of scheduling, because I 16 don't want to misstate anything in terms of his 17 availability. That's all. 18 CHAIRMAN FLANAGAN: And I think what we're 19 discussing though is, if we do this Verizon -- this 20 application would start no earlier than 7:30. 21 MR. SIMON: I'm fine with all the 22 scheduling and moving things earlier. I have no 23 problem with that, of course, just subject to witness 24 availability. 25 CHAIRMAN FLANAGAN: Okay. So Mr. Steck,</p>	<p style="text-align: right;">Page 76</p> <p>1 are you going to be able to join us on our regularly 2 scheduled meeting the third Thursday? 3 MR. STECK: The third Thursday? 4 CHAIRMAN FLANAGAN: Yes. What's the date 5 of that, Lori? 6 MR. SCHNEIDER: July 15th. 7 MR. STECK: I'm going to make myself 8 available July 15th at 7:30. Will that be in person or 9 by Zoom? 10 CHAIRMAN FLANAGAN: It will be in person. 11 MR. STECK: I will be there. 12 MR. MLENAK: Peter, I would suggest you 13 also, just so we don't have this issue next month, 14 block off the August meeting as well. 15 MR. STECK: And the date in August would be 16 August 19th? 17 SECRETARY TAGLAIRINO: Yes. 18 CHAIRMAN FLANAGAN: Yes. 19 MR. STECK: I have a potential matter in 20 Englewood that night, but it's not confirmed that I'm 21 needed that night. So I will try to make myself 22 available, but I'll have to get back to you. 23 CHAIRMAN FLANAGAN: Mr. Simon, I'll just -- 24 as we have discussed before, we have been doing this 25 for three years. The third Thursday is the night we</p>

<p style="text-align: right;">Page 77</p> <p>1 meet on this. So please have your witnesses ready to  2 go next month. And whatever -- however long this goes  3 on, we will meet the third Thursday for this  4 application.  5 MR. SIMON: Understood. And certainly what  6 I would ask, though, just based on what Mr. Steck  7 stated, is that if this Board is able to accommodate  8 the Applicant and have this matter start at 7:30 on  9 July the 15th and we start with Mr. Steck's testimony,  10 it sounds like between the testimony and the cross, and  11 any redirect, that we may, in fact, get Mr. Steck done  12 in that -- at that one July meeting, but I understand  13 the comment.  14 CHAIRMAN FLANAGAN: Yes. I will endeavor  15 to have two hours dedicated to this. And just to be  16 clear, I'm not saying that we're going to start Verizon  17 at 7:30, I'm just saying we'll start Verizon no earlier  18 than 7:30 at the next meeting.  19 MR. SCHNEIDER: And the only other, if we  20 can't complete the cross, or we can only get direct  21 then maybe what we can do in August is also consider at  22 that point starting earlier so maybe Mr. Steck could be  23 at two places at once, if necessary. I'm just throwing  24 that out as a scheduling alternative. In other words,  25 if you have other matters on your Agenda in July if you</p>	<p style="text-align: right;">Page 78</p> <p>1 get the direct done with Mr. Steck and then we start at  2 6:30 at the August meeting. That's just a thought.  3 MR. SIMON: Yes. I mean, just to keep in  4 mind, of course, that if we're no longer on Zoom that  5 it's not as easy as it has been over the last -- you  6 understand what I'm talking about.  7 MR. SCHNEIDER: I understand.  8 Okay. So with that understanding and my  9 plea, Mr. Chairman, just for notice purposes we're  10 going to carry it -- for the benefit of the public  11 we're going to carry it to July 15th at 7:30 p.m.,  12 although the meeting may start. It will be in person  13 at the municipal building. The matter is carried  14 without any further notice application of the  15 Applicant. It is in person at the municipal building.  16 The applicant will in this case grant an extension of  17 time, at least through the July meeting.  18 CHAIRMAN FLANAGAN: And the Board also  19 grants the extension, and we will see you at the July  20 meeting. Thank you everyone.  21 MR. SCHNEIDER: Rob, can you give me a call  22 when you get a chance tomorrow, okay?  23 MR. SIMON: Yes. Of course.  24 CHAIRMAN FLANAGAN: Is there any other  25 business tonight? No? Okay.</p>
<p style="text-align: right;">Page 79</p> <p>1 Guys, thank you again for joining us and we  2 will see you guys next month. We're adjourned.  3 MR. SCHNEIDER: Good night.  4 MR. SIMON: Thank you.  5 (Whereupon, the hearing on this application  6 concludes at 11:02 p.m.)  7  8  9  10  11  12  13  14  15  16  17  18  19  20  21  22  23  24  25</p>	<p style="text-align: right;">Page 80</p> <p>1 C E R T I F I C A T E  2  3 I, IRIS LA ROSA, a Notary Public and Certified  4 Shorthand Reporter of the State of New Jersey, do  5 hereby certify that the foregoing is a true and  6 accurate transcript of the testimony as taken  7 stenographically by and before me at the time, place,  8 and on the date hereinbefore set forth.  9 I DO FURTHER CERTIFY that I am neither a  10 relative nor employee nor attorney nor counsel of any  11 of the parties to this action, and that I am neither a  12 relative nor employee of such attorney or counsel, and  13 that I am not financially interested in the action.  14  15 IRIS LA ROSA, CSR, RPR  16 Certificate No. 30XI 00162800  17 Dated:  18  19  20  21  22  23  24  25</p>

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