

**HARDING TOWNSHIP BOARD OF ADJUSTMENT MINUTES**  
**REGULAR MEETING**  
**MAY 20, 2021**  
**7:30 PM**

**CALL TO ORDER AND STATEMENT OF COMPLIANCE**

The Board Chair, Mr. Flanagan called the regular 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	Present
Mr. Addonizio	Present	Ms. Sovolos	Present	Mr. Boyan	Present
Mr. Rosenbaum	Present	Mr. Symonds	Excused	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. Flanagan reminded the members to file their Financial Disclosure Forms

Mr. Flanagan announced the applications for the May 20, 2021 meeting being heard will be BOA# 01-21 Singh/Roure and BOA# 17-18 Verizon.

Mr. Flanagan made a motion to hold a Special Meeting on May 27, 2021 at 6:30. It was seconded by Mr. Rosenbaum. On a voice vote, all were in favor of holding a special meeting on May 27, 2021.

Mr. Flanagan made a motion to carry the following applications to the following meeting dates with no further notice:

BOA 03-21 Wade carried until the June 17, 2021 meeting  
BOA 04-21 Zhang carried until the June 17, 2021 meeting  
BOA 02-21 Wittig carried until the July 15, 2021 meeting  
BOA 09-21 Fleming carried until the May 27, special meeting  
BOA 10-21 Walters carried until the May 27, special meeting  
BOA 06-21 Ford carried to the May 27, 2021 special meeting  
BOA 08-21 Van Doren carried until the May 27, 2021 special meeting

The motion was seconded by Mr. Newlin. On a voice vote all were in favor of carrying the above mentioned applications.

Mr. Hall discussed the status of the Zoning Officer Appeal applications.  
Mr. Newlin noted that there was no information on ongoing training.

## **MINUTES**

Mr. Flanagan made a motion to approve the April 15, 2021 and April 22, 2021 minutes as written. It was seconded by Ms. Sovolos. On a voice vote all eligible members voted to approve both sets of the April minutes.

## **OLD BUSINESS**

Application BOA# 01-21

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

Presenting:  
Nicole M. Magdziak, Attorney  
Steven Kowalski, Architect

Mr. Rosenbaum recused himself.

- Ms. Magdziak noted that the applicant submitted revised plans that addressed comments from the Board hearing from the prior month.
- Ms. Magdziak noted a lowered roofline and a reduction of the floor area on the upper floor that complies with the ordinance.
- Mr. Hall noted that there were still two variances associated with the application; one for a setback and the other for expansion of an existing non-conforming structure.
- Mr. Hall noted the removal of a shed from the property.
- Ms. Magdziak noted that the revised plans placed the floor area below the 60% threshold.
- Mr. Kowalski verified his plans reduced the roofline and floor area on the upper story.
- Mr. Maselli asked about the calculation of the average grade.
- Mr. Flanagan noted that confirmation of the average grade would be a condition of approval.

Mr. Flanagan made a motion to approve the application subject to the submission of the calculation of the average grade. The motion was seconded by Mr. Addonizio. A roll call vote went as follows:

For: Mr. Boyan, Mr. Maselli, Mr. Newlin, Mr. Addonizio, Mr. Flanagan, Ms. Sovolos and Mr. Cammarata.  
Against: None  
Recused: Mr. Rosenbaum

Mr. Rosenbaum rejoined the meeting.

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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

William F. Masters Jr., Planner

Dr. Eisenstein, RF Specialist

Mr. Mlenak is acting Board Attorney for this application.

Robert Simon is an objecting attorney for this application.

Mr. Masters continued testimony.

Mr. Simon questioned the Planner testimony.

There was a break from 9:17 until 9:30.

Ms. Taglairino called the roll for the Board Members after the break and the following were present:

Mr. Boyan, Mr. Newlin, Mr. Flanagan, Mr. Maselli, Mr. Rosenbaum Mr. Addonizio, Ms. Sovolos, and Mr. Cammarata.

There were questions for the planner from the following residents:

Neil O' Donnell, 28 Millbrook Road

Leslie Wade, 1 Village Road

Christel Engel, 32 Millbrook Road

The application is carried to the June 17, 2021 meeting with no further notice.

A transcript of the testimony is appended to the minutes.

**OTHER BUSINESS**

None

**ADJOURNMENT**

Mr. Flanagan adjourned the meeting at 11:05

*Lori Taglairino*

Respectfully submitted by Lori Taglairino, Board of Adjustment Secretary

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<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, May 20, 2021</div> <div>Zoom Remote Videoconference</div> <div>Commencing at 7:58 p.m.</div> </div> <div> <div>BOARD MEMBERS PRESENT:</div> <div>MIKE FLANAGAN, Chairman</div> <div>ALF NEWLIN</div> <div>DONATO MASELLI</div> <div>ELIZABETH SOVOLOS</div> <div>THOMAS ADDONIZIO</div> <div>ARIC ROSENBAUM</div> <div>GEORGE BOYAN</div> <div>MICHAEL CAMMARATA</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 APPEARANCES:</div> <div>2</div> <div>3 GREENBAUM, ROWE, SMITH &amp; DAVIS, LLP</div> <div>BY: STEVEN G. MLENAK, ESQUIRE</div> <div>Attorneys for the Board</div> <div>4</div> <div>5 VOGEL, CHAIT, COLLINS &amp; SCHNEIDER, ESQUIRES</div> <div>BY: RICHARD SCHNEIDER, ESQUIRE</div> <div>Attorneys for the Applicant</div> <div>6</div> <div>7</div> <div>8 HEROLD LAW, PA</div> <div>BY: ROBERT F. SIMON, ESQUIRE</div> <div>Attorneys for the Objectors: SGSL, LLC; Harsh and</div> <div>9 Nina Bansal; Michael and Susan Koenke;</div> <div>David and Eunice Conine; Brian and</div> <div>10 Christina McKittrick; Livio Saganic and</div> <div>Christel Engel; James M. Carifa and</div> <div>11 Sarah G. Conine; Ted Cotton</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> <div>Page 3</div> <div> <div>1 INDEX</div> <div>2</div> <div>3 WITNESS: PAGE</div> <div>4 WILLIAM F. MASTERS</div> <div>By Mr. Simon..... 6</div> <div>5</div> <div>6</div> <div>7</div> <div>8 EXHIBITS</div> <div>9</div> <div>10 IN EVD. DESCRIPTION PAGE</div> <div>11 No Exhibits are marked</div> <div>12</div> <div>13</div> <div>14</div> <div>15 PUBLIC MEMBERS ARE SWORN:</div> <div>16 Neil O'Donnell.....page 94</div> <div>LeslieAnne Wade.....page 98</div> <div>17 Christel Engel.....page 99</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> <div>Page 4</div> <div> <div>1 CHAIRMAN FLANAGAN: All righty. We are</div> <div>2 back to the Verizon application.</div> <div>3 BOARD MEMBER ROSENBAUM: I'm back on the</div> <div>4 dais. Lori, can you reflect that?</div> <div>5 CHAIRMAN FLANAGAN: Aric is back.</div> <div>6 SECRETARY TAGLAIRINO: Mr. Rosenbaum is</div> <div>7 back on the dais for the Verizon application.</div> <div>8 CHAIRMAN FLANAGAN: Do we have a Hugh yet,</div> <div>9 Lori?</div> <div>10 SECRETARY TAGLAIRINO: I remember Mr.</div> <div>11 Symonds said he could attend the 27th but not the 20th.</div> <div>12 CHAIRMAN FLANAGAN: Got it. Okay.</div> <div>13 Mr. Schneider, Mr. Simon, Steve, welcome</div> <div>14 back. Remind me someone, please, Mr. Schneider, if you</div> <div>15 would, where we left off.</div> <div>16 MR. SCHNEIDER: We had at the last meeting,</div> <div>17 Mr. Chairman, completed the direct presentation of Mr.</div> <div>18 Masters, the Applicant's Professional Planner. Mr.</div> <div>19 Simon commenced his cross-examination but did not</div> <div>20 complete. So we're up to Mr. Simon's continued</div> <div>21 cross-examination of Mr. Masters.</div> <div>22 CHAIRMAN FLANAGAN: Great. Thank you. And</div> <div>23 just order of events, Mr. Schneider, do you have any</div> <div>24 more witnesses you're going to present after Mr.</div> <div>25 Masters, or are you going to -- I don't know if the</div> </div> </div>

<p style="text-align: right;">Page 5</p> <p>1 right term is "rest your case," but is Mr. Masters your 2 last witness?</p> <p>3 MR. SCHNEIDER: Rest the case would be the 4 phrase I would use, and that is correct, Mr. Chairman, 5 subject to any rebuttal based on any case that may be 6 presented by members of the public or Mr. Simon.</p> <p>7 CHAIRMAN FLANAGAN: And Mr. Simon, I 8 believe you have, so your cross-examination or 9 continuation of your cross-examination. And I believe 10 you have a two or some witnesses to present tonight?</p> <p>11 MR. SIMON: Right. So if we finish the 12 cross-examination of Mr. Masters and any rebuttal, et 13 cetera, including questions, of course, from members of 14 the public, then I'm prepared to present a few fact 15 witnesses just for purposes of introducing some 16 photographs which I have provided earlier in the day to 17 the Board through Lori, as well as to Mr. Schneider and 18 Mr. Mlenak.</p> <p>19 CHAIRMAN FLANAGAN: Okay. And then a 20 couple -- a few fact witnesses. And then you have 21 other witnesses that you're going to present, other 22 professionals in the future; is that correct?</p> <p>23 MR. SIMON: Yes. I'll have a professional 24 planning witness at a future meeting that I'm sure 25 we'll discuss at the conclusion of tonight's meeting,</p>	<p style="text-align: right;">Page 6</p> <p>1 if not before.</p> <p>2 CHAIRMAN FLANAGAN: Okay. Well then, Mr. 3 Simon, I think the floor is yours. Just keep in mind 4 I'd like to take a break at some point before eleven 5 o'clock tonight. Why don't we shoot for 9:00, 9:30, if 6 you can just keep an eye on it somewhere in that range 7 where you can come to a natural pause so we can take 8 just a quick break.</p> <p>9 MR. SIMON: Sure. I'll keep that in mind 10 in terms of where the break is going to be. I'll do my 11 best between, what did you say, I'm sorry, Mr. 12 Chairman, between 9:00 and 9:30?</p> <p>13 CHAIRMAN FLANAGAN: Yes. I'll give you 14 lots of leeway. Somewhere between 9:00 and 9:30.</p> <p>15 MR. SIMON: Okay. I'll take that under 16 advisement. Thank you, Mr. Chairman.</p> <p>17 Members of the Board, good evening. Rob 18 Simon from Herald Law. Mr. Masters, good evening. 19 Always good to see you.</p> <p>20 MR. MASTERS: Good evening, Mr. Simon.</p> <p>21 WILLIAM F. MASTERS, having 22 been previously sworn, testifies as follows: 23 EXAMINATION BY MR. SIMON: 24 Q. So I'm going to continue on from where I 25 left off with regard to my questioning of you.</p>
<p style="text-align: right;">Page 7</p> <p>1 Mr. Masters, in my review of the site and 2 the site plan there is a portion as you're sort of 3 coming from Millbrook down the driveway and you're 4 crossing I guess the intersection of what we referred 5 to last time as the bow tie to get to the DPW portion 6 of the property. And I noticed that there is a portion 7 of the paved drive on the property that extends to the 8 right onto an adjacent property with Belgium block 9 curb. And it appears to be a driveway towards the post 10 office. Are you familiar with that?</p> <p>11 A. I am.</p> <p>12 Q. And is that driveway utilized as part of 13 the DPW operation or other use of the subject property?</p> <p>14 A. I don't believe that it's used specifically 15 by the DPW, but there is accessibility between the 16 commercial property to the northeast and the DPW yard.</p> <p>17 Q. And when you say the commercial property to 18 the northeast, is that the post office being a part of 19 that property?</p> <p>20 A. Yes, it is.</p> <p>21 Q. And have you -- are you aware of any type 22 of easements, legal rights or otherwise, between the 23 township and the owner of that commercial property to 24 the northeast which includes the post office?</p> <p>25 A. I am not aware of the -- of the status of</p>	<p style="text-align: right;">Page 8</p> <p>1 any cross-access easements.</p> <p>2 Q. And are you aware of the use of that cross 3 -- of that area, whether it's a cross-access easement 4 or other, by any user of the subject property or any 5 user of the commercial/post office property?</p> <p>6 A. I'm not specifically aware of it, but it 7 exists. So I would assume that it occurs.</p> <p>8 Q. But you don't know to what extent, or how 9 frequently, or by whom?</p> <p>10 A. I do not.</p> <p>11 Q. And you're aware -- sticking with the site 12 plan for a second -- that there's a trailer at least 13 depicted on the site plan that's currently located 14 within the equipment compound; correct?</p> <p>15 A. Yes.</p> <p>16 Q. And that's proposed to be moved; right?</p> <p>17 A. It is.</p> <p>18 Q. Do you know where that's being moved to on 19 the site?</p> <p>20 A. I do not.</p> <p>21 Q. You mentioned earlier, or last time at your 22 testimony, about the great swamp watershed 23 environmental protection provisions that are set forth 24 in the ordinance; correct?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 9</p> <p>1 Q. And you believe in your review of the</p> <p>2 ordinance that those provisions apply to this</p> <p>3 particular application?</p> <p>4 A. I believe they apply to the majority of the</p> <p>5 township. I believe my testimony at the last hearing</p> <p>6 was essentially everything south of Jockey Hollow.</p> <p>7 Q. So in your read of the ordinance, Mr.</p> <p>8 Masters, is the Applicant here required under the</p> <p>9 ordinance to comply with the ordinance provisions in</p> <p>10 Harding Township related to the Great Swamp Watershed</p> <p>11 Overlay?</p> <p>12 A. I believe that they would.</p> <p>13 Q. And what portions of the Great Swamp</p> <p>14 Watershed Overlay Zone ordinance are violated as part</p> <p>15 of this application?</p> <p>16 A. I am not sure that as part of this</p> <p>17 application any of them are violated specifically</p> <p>18 relative to those requirements.</p> <p>19 Q. So your position is that the Applicant is</p> <p>20 in full compliance with those ordinance provisions?</p> <p>21 A. Well, my understanding is that any</p> <p>22 subsequent application that the stormwater management</p> <p>23 requirements need to be brought up to whatever the</p> <p>24 current requirements are.</p> <p>25 Q. And is this application proposing to bring</p>	<p style="text-align: right;">Page 10</p> <p>1 the stormwater management requirements up to whatever</p> <p>2 the current requirements are?</p> <p>3 A. I believe there's been discussions between</p> <p>4 the Applicant's Engineer and the Township Engineer, and</p> <p>5 I believe also between the Applicant's attorney and the</p> <p>6 Township Engineer relative to those issues.</p> <p>7 Q. Have those discussions or the content or</p> <p>8 context of those discussions been brought to this</p> <p>9 Board's attention in connection with this application?</p> <p>10 A. I'm not aware as to whether they had.</p> <p>11 Q. And with regard to your testimony at the</p> <p>12 last meeting, Mr. Masters, I believe you made a comment</p> <p>13 about the length of access roads and that they can't</p> <p>14 exceed 500 feet, and that the access road here is like</p> <p>15 720 feet. Does that refresh your recollection?</p> <p>16 A. It does.</p> <p>17 Q. And I admittedly misunderstood. In what</p> <p>18 context are you referring to under the ordinance? What</p> <p>19 ordinance provision talks about the access road not</p> <p>20 exceeding 500 feet?</p> <p>21 A. I believe it's part of the subdivision</p> <p>22 ordinance. I don't have it in front of me at the</p> <p>23 moment.</p> <p>24 Q. And the subject access road is 720 20 feet?</p> <p>25 A. Approximately. That was based upon my</p>
<p style="text-align: right;">Page 11</p> <p>1 scaling off of the drawings.</p> <p>2 Q. And where does the 720 feet terminate?</p> <p>3 A. It would terminate at the point where the</p> <p>4 proposed access to the compound would occur on the DPW</p> <p>5 portion of the property.</p> <p>6 Q. Okay. And you mentioned an additional -- I</p> <p>7 think you mentioned at the last meeting, an additional</p> <p>8 700-foot driveway -- 75-foot, excuse me, driveway. Are</p> <p>9 you referring to -- so that's the additional driveway</p> <p>10 that's being constructed as part of this application?</p> <p>11 A. That's correct.</p> <p>12 Q. And with regard to that additional 75-foot</p> <p>13 driveway that you believe requires relief, so that's</p> <p>14 under the subdivision ordinance in Harding Township?</p> <p>15 A. I believe that it is, yes.</p> <p>16 Q. And with regard to the other sections of</p> <p>17 the ordinance did you perform any analysis as to</p> <p>18 compliance with the vehicular and pedestrian movement</p> <p>19 section of the ordinance? I think it's 225-83,</p> <p>20 regarding provisions that are to be made for safe</p> <p>21 movements of both pedestrians and vehicular traffic</p> <p>22 within the site?</p> <p>23 A. I did not.</p> <p>24 Q. Do you know if there's any relief that's</p> <p>25 required by this Applicant in connection with that</p>	<p style="text-align: right;">Page 12</p> <p>1 ordinance provision?</p> <p>2 A. I did not review that provision so I would</p> <p>3 not know the answer.</p> <p>4 Q. And there's also a provision in the</p> <p>5 ordinance dealing with nonresidential parking areas and</p> <p>6 related improvements, which I think is Section 84 of</p> <p>7 the ordinance that talks about the location and size of</p> <p>8 parking areas, and where they are to be located in</p> <p>9 relation to surrounding areas, and aisle width, and</p> <p>10 parking angles and related pedestrian circulation and</p> <p>11 landscaping for around those parking areas, including</p> <p>12 landscaped islands.</p> <p>13 Did you do any analysis of that section of</p> <p>14 the ordinance as part of your review of this</p> <p>15 application as a planner?</p> <p>16 A. I did not, because again the nature of this</p> <p>17 use being an unmanned, unoccupied facility with very</p> <p>18 limited routine preventive maintenance, 12 to perhaps</p> <p>19 14 or 15 trips per year per carrier, I did not review</p> <p>20 any provisions relative to pedestrian and traffic.</p> <p>21 Q. And first of all, Mr. Masters, can you</p> <p>22 raise your voice or raise your volume a little bit?</p> <p>23 You're fading at least on me. I don't know if others</p> <p>24 feel the same way.</p> <p>25 A. I can try to speak louder.</p>

<p style="text-align: right;">Page 13</p> <p>1 Q. Okay. Thank you. With regard to these</p> <p>2 trips, what's the number of carriers that are capable</p> <p>3 of -- total number of carriers that are capable of</p> <p>4 utilizing this facility as designed?</p> <p>5 A. Well, the drawings that were submitted show</p> <p>6 the subject carrier, Verizon Wireless, and positions of</p> <p>7 four additional carriers. But again depending on the</p> <p>8 final height of the structure and the consolidations of</p> <p>9 wireless carriers that have occurred in the industry I</p> <p>10 would estimate that there would probably be perhaps a</p> <p>11 total of three carriers on the structure.</p> <p>12 Q. And again for -- assuming that it is three</p> <p>13 carriers based on your testimony here, you don't know</p> <p>14 where specifically those three carriers or the three</p> <p>15 parking spaces or more would be located; correct?</p> <p>16 A. I do not.</p> <p>17 CHAIRMAN FLANAGAN: Mr. Simon, can I</p> <p>18 interrupt you for one second? I apologize. But I just</p> <p>19 want to ask one question of Paul related to the earlier</p> <p>20 discussion about stormwater runoff. I think, Mr.</p> <p>21 Masters, you suggested that Verizon's engineer had had</p> <p>22 discussions with Paul, with the Township engineer.</p> <p>23 Paul, have you had discussions with</p> <p>24 Verizon's engineer on this topic, on the stormwater</p> <p>25 management?</p>	<p style="text-align: right;">Page 14</p> <p>1 MR. FOX: Yes, we have.</p> <p>2 CHAIRMAN FLANAGAN: And is what they are</p> <p>3 proposing or have they made a proposal that will</p> <p>4 satisfy the Township's requirement for stormwater</p> <p>5 management?</p> <p>6 MR. FOX: Yes. The code prior to, I guess</p> <p>7 it would have been March of this year, would not have</p> <p>8 applied to a development this small that had this much</p> <p>9 of a limited area of impervious surface. However, with</p> <p>10 the revision that was approved to the township</p> <p>11 stormwater ordinance this project would be subject to</p> <p>12 that new ordinance.</p> <p>13 Now, I think to be fair to Mr. Schneider,</p> <p>14 given time of application rules normally a new</p> <p>15 ordinance would not be applied to an application like</p> <p>16 this, but in discussions with the Applicant's Engineer</p> <p>17 they agreed to comply and provide stormwater control to</p> <p>18 address the requirements of the new ordinance. That's</p> <p>19 fairly straight forward in this case, because instead</p> <p>20 of trying to control runoff from the equipment area</p> <p>21 which would be somewhat difficult and would require</p> <p>22 ultimately increasing area of disturbance, what I</p> <p>23 recommended was that they collect runoff from the roof</p> <p>24 area of the immediately adjacent recycling shed and use</p> <p>25 that to recharge groundwater through a dry well and</p>
<p style="text-align: right;">Page 15</p> <p>1 satisfy the stormwater management requirements by doing</p> <p>2 that. And they agreed that that would be a suitable</p> <p>3 alternative for them, and that they would provide</p> <p>4 stormwater calculations in support of that.</p> <p>5 CHAIRMAN FLANAGAN: Okay. Great. Thank</p> <p>6 you.</p> <p>7 Mr. Simon, thank you. I apologize.</p> <p>8 MR. SIMON: That's okay. Can I -- before I</p> <p>9 continue with Mr. Masters, and I'm not in a position,</p> <p>10 nor would I suggest at least at this moment to start</p> <p>11 cross-examining Mr. Fox; however, I guess, maybe as an</p> <p>12 ask, to the extent that there's some sort of plan or it</p> <p>13 sounds like a discussion and they've come up with some</p> <p>14 sort of agreement, if that can be made public in a way</p> <p>15 that's beyond Mr. Fox's testimony this evening, mainly</p> <p>16 via a plan, a report, just so we can take a look at it</p> <p>17 and see --</p> <p>18 MR. FOX: Yes. I did discuss that with the</p> <p>19 Applicant's Engineer and they agreed to do that before</p> <p>20 the next hearing.</p> <p>21 CHAIRMAN FLANAGAN: Okay. Mr. Schneider,</p> <p>22 you can share that with the Board and with Mr. Simon</p> <p>23 and the public.</p> <p>24 MR. SCHNEIDER: Just for the record, I had</p> <p>25 a conversation with Mr. Fox yesterday generally</p>	<p style="text-align: right;">Page 16</p> <p>1 consistent with what he just articulated essentially</p> <p>2 involving some roof drains to the adjoining recycling</p> <p>3 building. Based on that we have no objection. I</p> <p>4 wasn't specifically aware that a plan was going to be</p> <p>5 required but I don't have an issue with that to put the</p> <p>6 issue to rest and not to make a mountain out of a mole</p> <p>7 hill that doesn't exist. So I have no issues dealing</p> <p>8 with that.</p> <p>9 CHAIRMAN FLANAGAN: Thank you. All right.</p> <p>10 Mr. Simon, sorry. I didn't mean to interrupt you.</p> <p>11 MR. SIMON: No, no. Of course. Any time.</p> <p>12 BY MR. SIMON:</p> <p>13 Q. With regard to Mr. Masters, then, the --</p> <p>14 well, let me ask it this way. Mr. Masters, other than</p> <p>15 what Mr. Fox just referenced, and what Mr. Schneider</p> <p>16 just referenced, do you have any other information or</p> <p>17 did you perform any analysis with regard to those</p> <p>18 issues of stormwater management in compliance with the</p> <p>19 ordinance?</p> <p>20 A. No.</p> <p>21 Q. And is there any tree removal that is being</p> <p>22 proposed as part of this application to your knowledge?</p> <p>23 A. Yes. There is some tree removal, and</p> <p>24 there's also some proposed tree replacement.</p> <p>25 Q. And in terms of the tree removal, do you</p>

<p style="text-align: right;">Page 17</p> <p>1 know whether the removal of those -- did you do any</p> <p>2 type of analysis as to whether the removal of those</p> <p>3 trees and their associated tree roots are going to</p> <p>4 impact trees that are slated to remain and not be</p> <p>5 removed?</p> <p>6 A. I did not, other than noting what -- what's</p> <p>7 depicted on the zoning drawings.</p> <p>8 Q. And we'll talk a little later about the --</p> <p>9 about your visual impact study, but with regard to the</p> <p>10 trees that are slated to be removed, how many trees are</p> <p>11 we talking about?</p> <p>12 A. It looks like about ten or 12.</p> <p>13 Q. And do you know the relative heights of</p> <p>14 those trees?</p> <p>15 A. I do not.</p> <p>16 Q. And do you have any analysis of the degree</p> <p>17 of the canopy of each of those trees?</p> <p>18 A. No, I do not.</p> <p>19 Q. Are they evergreens or deciduous?</p> <p>20 A. Primarily deciduous, if not all deciduous.</p> <p>21 Q. And in terms of their respective diameter</p> <p>22 breast heights, do you recall what they are in terms of</p> <p>23 a range?</p> <p>24 A. I do not. I don't believe Mr. Marowski</p> <p>25 provided any DBH data relative to those.</p>	<p style="text-align: right;">Page 18</p> <p>1 Q. So you don't know what the DBHs are of the</p> <p>2 trees that are slated to be removed; correct?</p> <p>3 A. Correct.</p> <p>4 Q. And do you know -- when you say that there</p> <p>5 are ten to 12 trees, Mr. Masters, that are slated to be</p> <p>6 removed is that based on your review of a site plan?</p> <p>7 A. Yes.</p> <p>8 Q. Did you acquire that information any other</p> <p>9 way?</p> <p>10 A. No.</p> <p>11 Q. If you only acquired that information via</p> <p>12 site plan do you know whether the site plan had a</p> <p>13 minimum DBH that it was depicting in terms of tree</p> <p>14 removal?</p> <p>15 A. I don't recall off hand.</p> <p>16 Q. So you don't know -- so for example, as you</p> <p>17 know from working on many applications over the years,</p> <p>18 Mr. Masters, that on-site plans that call for tree</p> <p>19 removal they usually identify the DBH or the diameter</p> <p>20 breast height at a minimum size; correct?</p> <p>21 A. Sometimes they do, sometimes they don't.</p> <p>22 Q. And with regard to ordinances usually they</p> <p>23 site them based on what the ordinance requires in terms</p> <p>24 of replacement trees based on the tree removal;</p> <p>25 correct?</p>
<p style="text-align: right;">Page 19</p> <p>1 A. It depends again on the ordinance.</p> <p>2 Q. What about the Harding Township ordinance?</p> <p>3 A. I do not recall.</p> <p>4 Q. So did you do any analysis as a</p> <p>5 professional planner in terms of compliance with the</p> <p>6 tree removal or tree replacement ordinance in the</p> <p>7 township?</p> <p>8 A. No. That was handled by the architect and</p> <p>9 engineering office.</p> <p>10 Q. And so, you don't know whether there may be</p> <p>11 trees and hedgerows that exceed the ten to 12 in number</p> <p>12 that may not have been depicted on the site plan based</p> <p>13 on their respective diameter breast heights; correct?</p> <p>14 A. I'm aware of only what's depicted on the</p> <p>15 site plan drawing, and of course again, the level of</p> <p>16 disturbance here in terms of the overall area of</p> <p>17 disturbances is quite limited. So I would suspect that</p> <p>18 based upon what's being depicted on the site plan</p> <p>19 drawing in terms of what's being removed and what's</p> <p>20 being replaced that the amount of removal is minimal,</p> <p>21 and the new material appears to be substantially</p> <p>22 greater than the number of existing trees that are</p> <p>23 being removed.</p> <p>24 Q. You used the term "material" for</p> <p>25 replacement. Do you recall what the size of the</p>	<p style="text-align: right;">Page 20</p> <p>1 replacement trees, if any, are at the time of planting?</p> <p>2 A. I do not. There is, however, a plant list</p> <p>3 on the landscape plan.</p> <p>4 Q. But you were not consulted as a</p> <p>5 professional planner on the project with regard to tree</p> <p>6 removal or tree replacement; correct?</p> <p>7 A. No. That was provided by the engineering</p> <p>8 office.</p> <p>9 Q. And with regard to your visual impact study</p> <p>10 which we will talk about later, are there -- does the</p> <p>11 photographs -- let me think about this. Do the</p> <p>12 photographs include a visual of some or all of the</p> <p>13 trees that are to be removed as part of this project?</p> <p>14 A. No. That question, I believe, was asked at</p> <p>15 the last hearing and I believe I indicated that the</p> <p>16 simulations do not depict any trees that are being</p> <p>17 removed.</p> <p>18 Q. I'm sorry. You faded off there, Rick.</p> <p>19 A. The photo simulations do not depict any of</p> <p>20 the existing trees that are being removed.</p> <p>21 Q. So if they don't depict the trees that are</p> <p>22 being removed how did you remove them from your</p> <p>23 photographs?</p> <p>24 A. I did not remove them from the photographs.</p> <p>25 Q. That's what I'm asking. So --</p>



<p style="text-align: right;">Page 21</p> <p>1 A. I did not show the trees being -- that are 2 being removed; nor, did I show trees that are being 3 proposed. 4 Q. So the record's clear, is it fair to say 5 that your photographs that are in your visual impact 6 studies may, in fact, include trees that are intended 7 to be removed as part of this application? 8 A. That is possible, yes. 9 Q. But if I was to show you the particular 10 photograph just as an example, Rick, you wouldn't be 11 able to tell me which of the trees that we're seeing 12 are going to be removed and which ones are staying; is 13 that correct? 14 A. No. That would be a very difficult thing to 15 do physically due to the, you know, the complexity of 16 branching habits so forth and so on. But of course, 17 again, I would remind the Board that the visual 18 analysis was conducted at a time where the leaves on 19 the deciduous trees were not on the trees because it 20 was done in February, at which time the leaves were off 21 of the deciduous trees. 22 Q. But the branches -- in that case, the 23 branches that would be seen that may screen or shield 24 or otherwise a part of a monopole or an equipment 25 compound, they may be shown on the visual impact study</p>	<p style="text-align: right;">Page 22</p> <p>1 but in fact may be removed as part of the application; 2 correct? 3 A. Yes, the bare branches of the trees that 4 are going to be removed obviously would be removed, but 5 they're not depicted as part of the visual analysis. 6 Q. In your -- with your familiarity, Rick, of 7 the site and the various structures and uses and 8 activities on this site is there an alternate location 9 on this site for the siting of a monopole and the 10 related equipment compound that would not involve the 11 removal of the ten to 12 trees that you're describing? 12 A. Possibly, but this is the site that was 13 made available by virtue of the bid that was awarded to 14 Verizon Wireless. 15 Q. Well, no. When you say this was the site 16 that was made available by virtue of the bid, when you 17 say the site are you talking about the property, or are 18 you talking about the specific location of the 19 equipment compound? 20 A. I'm talking about the specific location of 21 the equipment compound. 22 Q. So is it your testimony that the bid 23 request for the specific location of the equipment 24 compound has not changed since that bid was awarded? 25 A. It changed only relative to the effect of</p>
<p style="text-align: right;">Page 23</p> <p>1 where the salt dome was previously going to be proposed 2 to be located. 3 Q. So are you saying that there's no change in 4 terms of the precise location of the equipment compound 5 and the monopole? 6 A. I'm saying that the only change was that 7 which was necessitated by the change in plans relative 8 to the removal of the -- or the location of the salt 9 dome. 10 Q. And prior to the relocation of the salt 11 dome, in the location where it was originally proposed 12 to be per the RFP, do you know whether that location 13 would have necessitated the removal of any trees? 14 A. I would suspect that it would because the 15 degree of distances relative to the relocation are not 16 that substantial, for example, as was discussed at the 17 last hearing. The new location from the previous 18 location moved it 18 inches closer to Lot 9.04 to the 19 south and moved it 27.3 feet closer to the lot to the 20 west, Lot 55. So while it certainly would probably 21 affect which trees would be removed, I believe that 22 there would still be a need to remove trees. 23 Q. Did you see a plan based on the original 24 proposed location? When I say plan, I'm sorry, tree 25 removal plan?</p>	<p style="text-align: right;">Page 24</p> <p>1 A. No. It was not a tree removal plan, it was 2 merely a lease exhibit. 3 Q. Right, but since -- at any time based on 4 the location of the equipment compound per that lease 5 exhibit you haven't seen any tree removal plan for that 6 particular location; correct? 7 A. Correct. 8 Q. And with regard to the -- any other 9 location on the site, again, just so we close this 10 loop, are you aware of whether any request was made -- 11 whether it was prior or subsequent to Verizon being 12 awarded the bid to assess whether the equipment 13 compound and the monopole could be located in an area 14 on this, somewhere on this property that did not 15 involve the removal of trees? 16 A. No. I'm not aware of any such study. 17 Q. And with regard to your testimony, I don't 18 know if it was last time or two times ago, Rick, you 19 know, you talked about the center of interaction for 20 the township. And you said that the center, I believe 21 you said this, and you'll correct me I'm sure, that the 22 center of citizen interaction is the fire department, 23 the library, the churches, and the municipal building. 24 What are you basing that conclusion on? 25 A. I was merely citing or reciting language</p>

<p style="text-align: right;">Page 25</p> <p>1 from the Township Master Plan, the Township  2 Redevelopment Plan, relative to the New Vernon Village  3 area being the focal point of citizen activity within  4 the township.  5 Q. Right. Okay. But you did not -- that's  6 what I thought. Thank you for verifying that. But you  7 have not done any particular study of where folks  8 congregate in town and where they drive; correct?  9 A. Correct. I have not done any study, but I  10 am pretty familiar with Harding Township.  11 Q. Right. I remember hearing your testimony  12 and your time at the elementary school, so -- then my  13 follow up question is that if, in fact -- first of all,  14 do you agree with the -- because of your familiarity  15 with Harding Township, do you agree with the center --  16 with the Redevelopment Plan and with the Master Plan,  17 that the focal point in terms of citizen activity is  18 the fire department, churches, and municipal building?  19 A. Well, I don't know of the specific  20 locations, but certainly I would characterize the  21 center of activity within the Township of Harding being  22 in New Vernon. I mean, New Vernon is clearly the  23 crossroads of the major east-west, north-south roads  24 that traverse the township. Again, it's where the  25 churches are located, it's where the school's located.</p>	<p style="text-align: right;">Page 26</p> <p>1 It's where the municipal government is located,  2 commercial. Again, the Harding Township being  3 predominantly a residential municipality, the  4 commercial uses notwithstanding the Route 202 corridor,  5 I would characterize New Vernon as the hub or focal  6 point of activity within the township.  7 The only post office located -- even though  8 Harding has multiple zip codes or mailing addresses,  9 including Morristown, Green Village, the only post  10 office physically located within the Township is the  11 one in New Vernon.  12 Q. And as the hub or the focal point of the  13 community more people are going to see the proposed  14 cell tower in their travels in Harding than in any  15 other location in the township; correct?  16 A. Well, cell towers by their very nature  17 because of the line-of-sight technology have to be in  18 places where they're seen.  19 Q. Right. But to answer the question, though,  20 it's going to be seen more in those -- in this focal  21 point hub location than if a cell tower was located in  22 another portion of Harding Township; correct?  23 A. Well, it's going to be seen more by the  24 folks who frequent that area of Harding Township; yes.  25 Q. So would you say that it will be the</p>
<p style="text-align: right;">Page 27</p> <p>1 dominant visual element within this hub area?  2 A. I don't know that it will be the dominant  3 visual impact in the area.  4 Q. What would you consider to be more  5 dominant?  6 A. I don't know off the top of my head.  7 Q. Okay. And with regard to the ordinance  8 itself, you're certainly familiar, and I believe you  9 stated in your direct testimony, that you reviewed the  10 ordinance provisions at least related to wireless  11 telecommunications; correct?  12 A. Correct.  13 Q. And you're aware that an installation of a  14 wireless telecommunications antenna, antennas, are  15 raised on an existing building or a structure shall be  16 a permitted use in all zone districts, correct,  17 provided that you comply with the other ordinance  18 provisions relating to wireless telecommunications;  19 right?  20 A. Right.  21 Q. And you would agree that the ordinance  22 encourages the use of the antennas on existing  23 structures as an alternative to the construction of  24 towers; right?  25 A. It does, which is not unusual for a</p>	<p style="text-align: right;">Page 28</p> <p>1 municipal wireless ordinance.  2 Q. And even where it's to be attached to an  3 existing building or structure, the antenna is, let's  4 say a small cell, the ordinance further provides that's  5 to be attached in such a way to minimize its visibility  6 from public or private roads; correct?  7 A. Correct.  8 Q. Have you yourself in your role as a  9 professional planner for this application looked at the  10 -- those types of possible installations from a  11 planning perspective, whether we're talking about a  12 rooftop, a small cell, or cells on sides of a building,  13 that are camouflaged, or DAS other than what Ms.  14 Buschulte testified to?  15 A. Well, I looked at the alternate sites that  16 were discussed. I looked at specifically in terms of  17 an existing structure a steeple at the Presbyterian  18 Church, and the school, the municipal property, the  19 fire department.  20 Q. In terms of the school and the municipal  21 building, did you do any type of planning assessment to  22 locate antennas on the roofs of either of those  23 buildings?  24 A. I did not, because the landlords of both of  25 those properties did not express an interest in</p>

<p style="text-align: right;">Page 29</p> <p>1 locating a wireless facility at those properties.</p> <p>2 Q. Do you know whether the owners of -- and I</p> <p>3 know who the owners are, of course, of those</p> <p>4 facilities, whether they were ever approached about</p> <p>5 putting antennas on the roofs or sides of those</p> <p>6 buildings?</p> <p>7 A. No. I don't believe they were because I</p> <p>8 don't believe the radio frequency engineers were</p> <p>9 interested in putting antennas on the sides of those</p> <p>10 buildings.</p> <p>11 Q. Right. But from a planning perspective,</p> <p>12 you've done no analysis as to the planning impacts of</p> <p>13 putting antennas on roofs or sides of the buildings</p> <p>14 through a DAS installation as compared to a monopole;</p> <p>15 correct?</p> <p>16 A. Correct. If the radio frequency engineers</p> <p>17 are not interested in attaching the antennas to the</p> <p>18 structure, then I would not be doing a planning</p> <p>19 analysis.</p> <p>20 Q. Right. And you haven't -- in working for</p> <p>21 Verizon on this application, you haven't seen any type</p> <p>22 of propagation study or otherwise that contemplates</p> <p>23 putting antennas on the roofs of buildings or on the</p> <p>24 sides of buildings; correct?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">Page 30</p> <p>1 Q. And other than what Ms. Buschulte testified</p> <p>2 to and demonstrated via exhibits with regard to DAS</p> <p>3 installations, Distributed Antenna System</p> <p>4 installations, you haven't seen any additional</p> <p>5 proposals of that nature for this application; correct?</p> <p>6 A. Correct.</p> <p>7 Q. And you stated at some point earlier --</p> <p>8 again, Rick, I apologize. I don't know if it was last</p> <p>9 meeting or two meetings ago. You stated something to</p> <p>10 the effect that locating the monopole at the DPW is a</p> <p>11 site where existing, I think, patterns of development</p> <p>12 are not impacted by a tower, or something to that</p> <p>13 effect. You were referring to the DPW property itself,</p> <p>14 correct, and not the surrounding residential or other</p> <p>15 properties; right?</p> <p>16 A. I don't recall that specific statement, but</p> <p>17 I know I made comments relative to the fact that DPW</p> <p>18 facilities are often properties that are considered by</p> <p>19 municipalities for wireless telecommunications</p> <p>20 facilities.</p> <p>21 Q. Right. And I don't want to repeat the line</p> <p>22 of questioning, but we went over -- you had referenced</p> <p>23 some locations, and I had asked you questions about</p> <p>24 residential uses in an area, and you can remember the</p> <p>25 testimony or it can speak for itself. I don't want to</p>
<p style="text-align: right;">Page 31</p> <p>1 go back over that area.</p> <p>2 What's the tallest building or structure</p> <p>3 currently at the DPW site?</p> <p>4 A. Again, I don't know what the heights of</p> <p>5 those garages are.</p> <p>6 Q. Can you estimate or no?</p> <p>7 A. No. I'd rather not.</p> <p>8 Q. And with regard to the zone that this</p> <p>9 property is located in, it's located in the Public Land</p> <p>10 Zone; correct?</p> <p>11 A. Correct.</p> <p>12 Q. And while the DPW is not specifically</p> <p>13 delineated as a permitted use in that zone; correct?</p> <p>14 Because it talks about administration</p> <p>15 buildings, libraries, historic buildings, cultural</p> <p>16 centers, public schools, playgrounds, conservation</p> <p>17 purposes, recreation uses, educational facilities. It</p> <p>18 does say garages to house municipal equipment, I</p> <p>19 believe?</p> <p>20 A. Yes. It does say garages to house</p> <p>21 municipal equipment. You're right.</p> <p>22 Q. So is the use, the DPW use permitted in the</p> <p>23 PL Zone because the use is for garages to house</p> <p>24 municipal equipment?</p> <p>25 A. Yeah. I believe it is.</p>	<p style="text-align: right;">Page 32</p> <p>1 Q. Any other basis for the use being -- the</p> <p>2 current use being permitted?</p> <p>3 A. Well, after it says garages to house</p> <p>4 municipal equipment, or any of the other public uses,</p> <p>5 buildings and structures, I would certainly think it</p> <p>6 would fall under that category, too, because that seems</p> <p>7 to me to be a pretty broad category.</p> <p>8 Q. Regardless of what the specific use is,</p> <p>9 right? Regardless of what the specific public use is?</p> <p>10 A. Right. As long as it's public use.</p> <p>11 Q. Are there any current uses at the property,</p> <p>12 at this property, that are prohibited by the zoning</p> <p>13 ordinance, to your knowledge?</p> <p>14 A. Well, I don't see a section that speaks in</p> <p>15 terms of prohibited uses.</p> <p>16 Q. Well, if it --</p> <p>17 A. Again, it's a public land zone. For</p> <p>18 example, I don't know that a restaurant or a bar or,</p> <p>19 you know, some other type of private enterprise would</p> <p>20 be permitted in this zone, but I would say if it's a</p> <p>21 public use or building, library, I think the ordinance</p> <p>22 is written pretty clearly in terms of what its intent</p> <p>23 is, museums, you know, things of that nature. I think</p> <p>24 it's a zone that permits public land uses.</p> <p>25 Q. I'll ask the question again. Are there</p>

<p style="text-align: right;">Page 33</p> <p>1 any, you know, based on your knowledge of the uses at</p> <p>2 the property, are there any current uses at the</p> <p>3 property on either side of the bow tie, that are not --</p> <p>4 we'll use your words, not public uses?</p> <p>5 A. Not to my knowledge.</p> <p>6 Q. And do you know when the public use zone</p> <p>7 was put into effect?</p> <p>8 A. The only date I have is -- it was amended</p> <p>9 March 17, 2004, by Ordinance number 4-04. And on</p> <p>10 April 20, 2005, by Ordinance number 5-05.</p> <p>11 Q. And did you review those ordinances, Mr.</p> <p>12 Masters?</p> <p>13 A. Yes, I did. To what extent it existed</p> <p>14 prior to those dates I don't know.</p> <p>15 Q. So you don't know what the zoning was of</p> <p>16 this property prior to 2004; correct?</p> <p>17 A. Correct.</p> <p>18 Q. And do you know what the use of this</p> <p>19 property was prior to 2004?</p> <p>20 A. Well, I know the Tunis-Ellicks House has</p> <p>21 been there for a very, very long time. I don't recall</p> <p>22 what the specific use was on the DPW property prior to</p> <p>23 this use.</p> <p>24 Q. And you're not aware, Mr. Masters, in your</p> <p>25 review of this application, of any variance relief for</p>	<p style="text-align: right;">Page 34</p> <p>1 any portion of this property that was applied for or</p> <p>2 granted; correct?</p> <p>3 A. Correct.</p> <p>4 Q. And the -- while the applicant requires a</p> <p>5 D-1 Use Variance for this application; right?</p> <p>6 A. Right.</p> <p>7 Q. And you are aware, and you've mentioned</p> <p>8 that the -- that wireless telecommunication towers are</p> <p>9 conditionally permitted in the OB Zone and the B-2 Zone</p> <p>10 in the township on the eastern side of Route 202;</p> <p>11 correct?</p> <p>12 A. Correct.</p> <p>13 Q. And are you aware of whether there's any</p> <p>14 immediate adjacent homes in those areas?</p> <p>15 A. Well, I know there's homes on both sides of</p> <p>16 202 immediately adjacent to those specific areas. I do</p> <p>17 not recall.</p> <p>18 Q. And under the ordinance that controls the</p> <p>19 placement of a tower in the OB or B-2 Zones, you know,</p> <p>20 on 202 as a conditional use, it requires that even if</p> <p>21 you're going to be placing such towers in such</p> <p>22 locations, that the lot itself needs to have frontage</p> <p>23 on an access to and from a county road or a state</p> <p>24 highway; right?</p> <p>25 A. Right.</p>
<p style="text-align: right;">Page 35</p> <p>1 Q. And this application doesn't -- I mean,</p> <p>2 forget about Route 202, this, the lot that the</p> <p>3 property's located on, or the lot, does not have</p> <p>4 frontage or direct access to a county road or state</p> <p>5 highway; right?</p> <p>6 A. Correct.</p> <p>7 Q. And also under the conditional use section</p> <p>8 of the ordinance, that no nonresidential structure,</p> <p>9 parking activity, or any other activity associated with</p> <p>10 the conditionally permitted use such as a cell tower</p> <p>11 shall be located within a hundred feet of an adjacent</p> <p>12 lot in a residential zone; correct?</p> <p>13 Rick, I think it's like maybe 169A</p> <p>14 something, maybe A-3, if that helps you.</p> <p>15 A. No. The wireless ordinance is 225-175.</p> <p>16 Q. Right. But --</p> <p>17 A. Okay. I don't recall.</p> <p>18 Q. But isn't the placement of a cell tower in</p> <p>19 one of those OB or B-2 Zone it's a conditional use;</p> <p>20 right?</p> <p>21 A. Yes. It's a conditional use, but I don't</p> <p>22 recall the 100-foot setback requirement.</p> <p>23 Q. So if I told you that under Section</p> <p>24 225-169A-3 where a conditionally permitted use such as</p> <p>25 a cell tower in the OB or B-2 Zones that the</p>	<p style="text-align: right;">Page 36</p> <p>1 requirement is that they shall be located -- that they</p> <p>2 can't be located within a hundred feet of an adjacent</p> <p>3 lot in a residential zone or on any lot use for</p> <p>4 residential purposes. That does not refresh your</p> <p>5 recollection and your review of the ordinance?</p> <p>6 A. If it applies to all conditional uses.</p> <p>7 Q. Right. It does apply to all -- I will</p> <p>8 proffer to you that it applies to all conditional uses,</p> <p>9 and not just -- not just cell towers but a church, a</p> <p>10 school, township facilities, public utilities?</p> <p>11 A. Right. Okay.</p> <p>12 Q. Right. So then it would apply; right?</p> <p>13 A. It would.</p> <p>14 Q. Okay. So even where such uses are desired</p> <p>15 by the township per ordinance they need to be a minimum</p> <p>16 of a hundred feet away from residential zones or</p> <p>17 residential uses; correct?</p> <p>18 A. Correct.</p> <p>19 Q. And in our case we have a monopole that is</p> <p>20 less than 60 feet from residential Lot 9.04; correct?</p> <p>21 A. Correct.</p> <p>22 Q. And then this case, we also have an</p> <p>23 equipment compound that's going to be 35 feet from</p> <p>24 residential Lot 9.04, and approximately I think it's 99</p> <p>25 feet from residential Lot 55; right?</p>

<p style="text-align: right;">Page 37</p> <p>1 A. 58.1 feet from 9.04, and 93.6 feet from Lot</p> <p>2 55.</p> <p>3 Q. Okay. Thank you for -- say that again.</p> <p>4 What is it from 9.04, Rick, the equipment compound?</p> <p>5 A. The equipment compound -- just a second --</p> <p>6 bare with me, please.</p> <p>7 Q. Take your time.</p> <p>8 A. No. The monopole is 58.1 feet from Lot</p> <p>9 9.04. And the monopole is 93.6 feet from Lot 55.</p> <p>10 Q. 93.6. Okay. And what about the equipment</p> <p>11 compound?</p> <p>12 A. Let's see. The equipment compound is 66.6</p> <p>13 feet.</p> <p>14 Q. From 9.04?</p> <p>15 A. From -- no. From Lot 55.</p> <p>16 Q. Okay.</p> <p>17 A. And it's like 45 feet approximately to Lot</p> <p>18 55.</p> <p>19 Q. Wait, wait. I think you said 55 twice.</p> <p>20 Let's just be clear in terms of -- to help you.</p> <p>21 Do you want to repeat that, please, just</p> <p>22 once more so it's clear?</p> <p>23 A. 66.6 feet to Lot 9.04 -- I'm sorry, 66.6</p> <p>24 feet to Lot 55.</p> <p>25 Q. Right.</p>	<p style="text-align: right;">Page 38</p> <p>1 A. And 45.4 feet to Lot 9.04.</p> <p>2 Q. Okay. That's the equipment compound;</p> <p>3 correct?</p> <p>4 A. Correct.</p> <p>5 Q. And with regard -- getting back to the</p> <p>6 ordinance, you're aware that the ordinance provides</p> <p>7 that each lot in Harding Township shall contain no more</p> <p>8 than one principal building or structure; correct?</p> <p>9 A. Correct.</p> <p>10 Q. And in this case how many principal</p> <p>11 buildings or structures currently are on the subject</p> <p>12 property, both sides of the bow tie?</p> <p>13 A. I haven't counted the buildings. Clearly</p> <p>14 it's multiple buildings. I would note, though, that</p> <p>15 this is the PL Public Land District which has no bulk</p> <p>16 regulations. So I don't know that that provision would</p> <p>17 apply to a -- a municipal DPW yard.</p> <p>18 Q. Are you aware of any section of the</p> <p>19 ordinance that excludes a property in the PL Zone or</p> <p>20 the DPW yard from this provision that prevents no more</p> <p>21 than one principal building or structure on a lot?</p> <p>22 A. No. But I'm not aware of any such</p> <p>23 regulation within the PL Zone District either.</p> <p>24 Q. So as a professional planner, Mr. Masters,</p> <p>25 on this application, is it your professional opinion</p>
<p style="text-align: right;">Page 39</p> <p>1 that the provision in the ordinance that states that</p> <p>2 each lot contain no more than one principal building or</p> <p>3 structure not apply to this application?</p> <p>4 A. It would be my position that it does not</p> <p>5 apply to the Public Land Zone. There was an additional</p> <p>6 building put there two years ago on that property. I'm</p> <p>7 not aware that there were any variances for it.</p> <p>8 Q. Well, do you know is that -- the building</p> <p>9 that was put on it a few years ago was that a principal</p> <p>10 building or was that an accessory building?</p> <p>11 A. Well, it's where the Director's Office is,</p> <p>12 so I would probably characterize that as a principal</p> <p>13 building.</p> <p>14 Q. Other than that building what other</p> <p>15 buildings constitute principal buildings on this lot?</p> <p>16 A. I've not analyzed -- I mean, there's a</p> <p>17 couple of garages. So I would say there's probably at</p> <p>18 least three, plus the Tunis-Ellicks house would, I</p> <p>19 believe, qualify as a principal building.</p> <p>20 Q. So four principal buildings plus the new</p> <p>21 one, new office is five?</p> <p>22 A. Yeah. I would say five.</p> <p>23 Q. And with regard to the cell tower, the cell</p> <p>24 tower would be a separate principal structure</p> <p>25 certainly; correct?</p>	<p style="text-align: right;">Page 40</p> <p>1 A. Oh, yeah. It's a structure. It's</p> <p>2 obviously not a building.</p> <p>3 Q. But it would be a principal structure</p> <p>4 because it wouldn't be accessory to the existing DPW?</p> <p>5 A. No. There's cause law that says that the</p> <p>6 -- that the equipment shelters and cabinets are</p> <p>7 actually the principal structures, and the pole of the</p> <p>8 antennas are accessory to that because the equipment is</p> <p>9 what drives the facility. So I'm not sure -- you know,</p> <p>10 I think that's a debatable issue.</p> <p>11 Q. Okay. So I'll ask it in two parts: Part</p> <p>12 number one, the case law that you're referring to, are</p> <p>13 those published opinions by the Appellate Division?</p> <p>14 A. I don't know if they're published, I don't</p> <p>15 know, but I know there's opinions out there that</p> <p>16 indicate that the equipment, and I'm sure you're</p> <p>17 probably aware of them, that establish the equipment</p> <p>18 cabinets and shelters as the principal structure as the</p> <p>19 part of the overall wireless facility.</p> <p>20 Q. So regardless of whether any of those cases</p> <p>21 are presidential, Mr. Schneider and I will deal with</p> <p>22 that later. More directly, though, let's even assume</p> <p>23 that you're right. And that the equipment compound is</p> <p>24 the principal structure, right. Certainly the</p> <p>25 equipment compound that's being proposed by the</p>

<p style="text-align: right;">Page 41</p> <p>1 Applicant here is certainly not accessory to the DPW 2 use; correct? 3 A. Correct. 4 Q. And so then therefore under your 5 interpretation the equipment compound would constitute 6 yet another principal structure; correct? 7 A. Perhaps. Yes. Correct. 8 Q. And again, with regard to the ordinance 9 where it talks about accessory buildings and structures 10 shall be located behind the front facade of the 11 principal building or structure situated on the same 12 lot. 13 So have you done an analysis as part of 14 your planning evaluation as to whether that ordinance 15 provision is violated currently on this property, and 16 to what extent? 17 A. Again, I don't think it applies. I mean, 18 it's a use -- the DPW yard, for example, is a use that 19 by its virtue of its very nature would have multiple 20 principal structures on the property. And that, 21 coupled with the fact that the Public Land Zone, the 22 Redevelopment Plan, none of which establish any kind of 23 bulk standards for the PL Zone property. 24 Q. Well, you're talking about in terms of 25 setbacks and things like that?</p>	<p style="text-align: right;">Page 42</p> <p>1 A. Correct. 2 Q. But again just so the record's clear, you 3 have not done any evaluation as to the -- what is a 4 principal building on the site, what is a principal 5 structure on the site, what are accessory structures, 6 and whether all accessory buildings and structures are 7 located behind the front facade of the principal 8 building or structure; correct? 9 A. Correct. But what I can tell you is that 10 all of the structures and buildings, if you want to 11 call them buildings, associated with the wireless 12 telecommunications facility are all unmanned, 13 unoccupied buildings, and you know, as such do not 14 generate the types of activities associated with 15 conventional buildings and structures. 16 Q. Getting back for a moment. I neglected to 17 raise this then, but I'll to it now. Getting back to 18 the conditional use portion of the ordinance where cell 19 towers are conditionally permitted as we know just in 20 the OB Zone and the B-2 Zone in the eastern side of 21 Route 202. Under those provisions where they're just 22 even conditionally permitted, doesn't the ordinance say 23 that no other principal use shall be established on the 24 same lot as an authorized conditional use? 25 A. I don't recall that language.</p>
<p style="text-align: right;">Page 43</p> <p>1 Q. And you did mention a moment ago that the 2 Tunis-Ellicks house, that is a separate principal use; 3 correct? 4 A. Yes. I would consider that to be a 5 separate principal use. 6 Q. And in the DPW, if that was -- and I 7 apologize. I may have referenced this last time but 8 just in case I didn't, real quick. If the DPW lot 9 portion of the property were severed from the 10 Tunis-Ellicks, what I'll call side of the bow tie, of 11 the property so that they were two separate properties, 12 and this application was made, there would certainly be 13 a different lot coverage analysis; correct? 14 A. Well, yeah. If they were severed. If they 15 were two separate blocks and lots, but the fact is 16 they're not severed. It's all one piece of property. 17 Q. Right. And because it's all one piece of 18 property you don't need to get a planning variance, 19 because technically through the middle of the bow tie 20 you have access to the public street; correct? 21 A. Correct. 22 Q. And with regard to the surrounding area, we 23 have residential zones in the B-1 Zone that's 24 surrounding the subject property; correct? 25 A. Correct.</p>	<p style="text-align: right;">Page 44</p> <p>1 Q. And wireless telecommunication towers is 2 also not a contemplated use within the Historic 3 District; right? 4 A. Correct. 5 Q. And a monopoles also not contemplated by 6 the Redevelopment Plan; right? 7 A. Right. 8 Q. And it's not contemplated by the Master 9 Plan; right? 10 A. Not in this location. 11 Q. Right. And with regard to -- did you do an 12 analysis as part of your planning review, Mr. Masters, 13 of the B-1 Zone and the purposes of the B-1 Historic 14 Village Business Zone? 15 A. I did not. 16 Q. So you're not aware of the extent to which 17 there's language in the ordinance that talks about the 18 importance of the area in relation to the New Vernon 19 Historic District? 20 A. I did not do a specific analysis of the B-1 21 Zone. I did review, of course, the Redevelopment Plan. 22 Q. So in the B-1 Zone you don't know then what 23 the maximum height of buildings is permitted? 24 A. I don't. Not off the top of my head, no. 25 Q. And there's residential uses surrounding</p>

<p style="text-align: right;">Page 45</p> <p>1 the PL Zone as well; correct?</p> <p>2 A. That's correct.</p> <p>3 Q. Do you know specifically what residential</p> <p>4 zones are immediately adjacent to the PL Zone here?</p> <p>5 A. I do. The R-1 Resident Zone. The R-3</p> <p>6 Resident Zone.</p> <p>7 Q. Any others?</p> <p>8 A. I believe those are the only two that</p> <p>9 physically adjoin the subject property. Then the</p> <p>10 property to the north along Village Road would be the</p> <p>11 Historic Village Business Zone.</p> <p>12 Q. And did you review the R-1 and the R-3</p> <p>13 Zones in term of their requirements?</p> <p>14 A. I did not.</p> <p>15 Q. So you don't know what the maximum heights</p> <p>16 are permitted in the R-1 or R-3 Zones are; correct?</p> <p>17 A. I'm sorry. What the maximum what?</p> <p>18 Q. I'm sorry. I apologize, Rick. What the</p> <p>19 maximum heights are in the R-1 or R-3 Zone?</p> <p>20 A. Usually in residential zones it's 35 feet.</p> <p>21 Q. Do you have any reason to believe that in</p> <p>22 the B-1 Zone that the maximum height is greater than 35</p> <p>23 feet?</p> <p>24 A. I would have no reason to believe that.</p> <p>25 Q. So getting back to the PL Zone in your</p>	<p style="text-align: right;">Page 46</p> <p>1 comment that the PL Zone doesn't have any bulk</p> <p>2 standard; is that correct?</p> <p>3 A. Correct.</p> <p>4 Q. Why do you think that the PL Zone does not</p> <p>5 have any bulk standards?</p> <p>6 A. I have no idea.</p> <p>7 Q. Do you think it has to do with the user</p> <p>8 being the municipality?</p> <p>9 A. That could be a distinct possibility.</p> <p>10 Q. But you didn't look at the ordinance that</p> <p>11 created the PL Zone, or the legislative history as to</p> <p>12 the purposes behind the creation of the PL Zone; right?</p> <p>13 A. I did not review any documents relative to</p> <p>14 the legislative purposes of the creation of the zone.</p> <p>15 Q. And what is the current height of the</p> <p>16 proposed -- of the proposed tower as currently proposed</p> <p>17 by Verizon; do you know?</p> <p>18 A. Well, the only drawings on file with the</p> <p>19 Board would be the 140-foot version. But obviously</p> <p>20 during the course of the evolution of this application</p> <p>21 there's been discussion of 120 feet.</p> <p>22 Q. Right. And when -- Rick, when you did the</p> <p>23 crane study on Valentine's Day of 2020, February 14th,</p> <p>24 what was the height of the crane?</p> <p>25 A. I did no crane study on Valentine's Day</p>
<p style="text-align: right;">Page 47</p> <p>1 2020. I was not at that crane test.</p> <p>2 Q. You were not there?</p> <p>3 A. I was at the crane test that was done three</p> <p>4 years ago.</p> <p>5 Q. So you were not at the crane test that was</p> <p>6 done on February 14, 2020?</p> <p>7 A. No, I was not. I was not even in New</p> <p>8 Jersey on February 14, 2020.</p> <p>9 Q. I'm not going to ask you where you were.</p> <p>10 The most recent -- and I'll get back into this in a</p> <p>11 moment. But the most recent visual impact study</p> <p>12 photographs that you submitted to the Board that show</p> <p>13 the faux tree and the flagless flagpole at 120 feet,</p> <p>14 and alternatively at a hundred feet from various</p> <p>15 locations. Was that -- was your placement of the faux</p> <p>16 tree and flagless flagpole in those photographs based</p> <p>17 on the February 14, 2020, crane test?</p> <p>18 A. No. I told you I was not at the</p> <p>19 February 14th, 2020, crane test.</p> <p>20 Q. So what did you base your visual impact</p> <p>21 study simulations in terms of height on?</p> <p>22 A. They were done from the crane test that was</p> <p>23 conducted on February 27th, 2018, and I went into</p> <p>24 specific detail during my direct testimony, which was I</p> <p>25 believe in March of this year, as to how those photo</p>	<p style="text-align: right;">Page 48</p> <p>1 simulations were created that they were at the exact</p> <p>2 same locations as the 140-foot photo simulations, but</p> <p>3 that the -- they were interpolated down as part of the</p> <p>4 computer simulations to the heights of 120 feet and</p> <p>5 110 feet.</p> <p>6 In the case of the tree pole with the</p> <p>7 additional height of the branching at 126 feet, the</p> <p>8 flagpole at 120 and 110 feet.</p> <p>9 Q. 120 and 110, or a 120 and a hundred?</p> <p>10 A. I'm sorry. 120 and a hundred.</p> <p>11 Q. So -- but did anyone -- even though you</p> <p>12 were not present on Valentine's Day 2020 for the crane</p> <p>13 test, good for you, did anybody subsequently tell you</p> <p>14 what the height was that the crane was placed at?</p> <p>15 A. No. I was not -- that crane test was done</p> <p>16 for the benefit of the radio frequency engineers</p> <p>17 testing various heights to determine the scope of</p> <p>18 coverage from the antennas at the varying heights. I</p> <p>19 did not discuss -- I'm assuming they were done at a</p> <p>20 hundred and -- like I said, 120 and 110 -- I'm sorry.</p> <p>21 120 and a hundred, but I had no discussions with anyone</p> <p>22 who was involved in the crane test.</p> <p>23 Q. Right. But based on -- because you were</p> <p>24 present for Ms. Buschulte's testimony, so is it safe to</p> <p>25 assume that the height of the crane for the</p>

<p style="text-align: right;">Page 49</p> <p>1 February 14th, 2020, crane test, based on Ms.  2 Buschulte's testimony, that it was likely at 120 feet?  3 A. 120. I do not know if they tested a  4 hundred or not?  5 Q. Okay. And do you know whether -- it's sort  6 of similar to maybe the stormwater question, but if  7 this Board were to approve a form of tower at a height  8 lower than 140 feet do you have any information as to  9 whether the township would be amenable to amending its  10 agreement with Verizon to provide for a lower height  11 than what is stipulated in the RFP and the lease?  12 A. I obviously would have no personal  13 knowledge or awareness of whether the Township  14 Committee would be agreeable to that. I would think  15 that if by lowering the height of the tower it's going  16 to shrink the viewshed and reduce the overall visual  17 impact that they would prefer that alternative as  18 opposed to increasing the height from 140 feet to 160.  19 Q. And you would agree that as any -- as the  20 proposed tower, whether it's the faux tree or the  21 flagless flagpole, that as the height would be reduced  22 that you would shrink -- you would continue to shrink  23 the viewshed; correct?  24 A. You would certainly shrink the viewshed.  25 You would also, of course, shrink the overall coverage.</p>	<p style="text-align: right;">Page 50</p> <p>1 And you would reduce the potential for future  2 collocation.  3 Q. And similar to my question about the  4 height, my recollection is that the RFP mentioned a  5 faux tree design. And so my question is, if this Board  6 were to consider a flagless flagpole design, do you  7 know whether the township would be amenable to that in  8 relation to amending its agreement with Verizon?  9 A. Again, I would obviously have no knowledge  10 of whether the governing body would be amenable to  11 that.  12 In addition to the bid documents specifying  13 a tree pole, they also specified that the -- the bid  14 was subject to zoning approval. And I would assume  15 that the reason they did that was because they wanted  16 input from the Board that deals with land use issues.  17 And if the Board were to come back with a  18 recommendation that they wanted a flagpole and did not  19 want a tree pole I would anticipate that the Committee  20 would listen to those recommendations. But I would  21 have no way of knowing whether or not they would be  22 amenable to amending the agreement.  23 MR. SIMON: Mr. Chairman, I see that it's  24 on my clock 9:17, which is pretty much in the middle  25 of, I think, where you wanted to take a break?</p>
<p style="text-align: right;">Page 51</p> <p>1 CHAIRMAN FLANAGAN: Perfect. Yes. Thank  2 you. Are you ready to take a break?  3 MR. SIMON: I'm always ready to take a  4 break, frankly.  5 CHAIRMAN FLANAGAN: Okay. All right. I  6 would say why don't we take it to 9:30. We'll start  7 again at 9:30 Sharp.  8 MR. SIMON: Thank you.  9 CHAIRMAN FLANAGAN: Thank you, everyone.  10 (Whereupon, a break is taken at 9:18 p.m.)  11 (Back on the record at 9:30 p.m.)  12 CHAIRMAN FLANAGAN: Lori, are you -- where  13 are you Lori. There you are. Lori, are you speaking?  14 We can't hear you. Can anyone hear me?  15 BOARD MEMBER SOVOLOS: I can hear you,  16 Mike.  17 CHAIRMAN FLANAGAN: Lori, can you hear me?  18 Yes? Wave if you can hear me. I don't think we can  19 hear you, though. No, can't hear you. How about now?  20 Hey, Lori -- no, can't hear you. Can we do hand  21 signals here? Can you give me a thumbs up if the  22 recording has started?  23 (Whereupon, Secretary Taglairino signals a  24 thumbs up.)  25 All right. Can I just do the roll call?</p>	<p style="text-align: right;">Page 52</p> <p>1 Okay. Ms. Sovolos?  2 BOARD MEMBER SOVOLOS: Here.  3 CHAIRMAN FLANAGAN: Mr. Rosenbaum?  4 BOARD MEMBER ROSENBAUM: I am here.  5 CHAIRMAN FLANAGAN: Mr. Addonizio?  6 BOARD MEMBER ADDONIZIO: Here.  7 CHAIRMAN FLANAGAN: Mr. Newlin?  8 BOARD MEMBER NEWLIN: Here.  9 CHAIRMAN FLANAGAN: Mr. Cammarata?  10 BOARD MEMBER CAMMARATA: Here.  11 CHAIRMAN FLANAGAN: Mr. Boyan?  12 BOARD MEMBER BOYAN: Here.  13 CHAIRMAN FLANAGAN: Mr. Maselli?  14 BOARD MEMBER MASELLI: Here.  15 CHAIRMAN FLANAGAN: And Mike Flanagan is  16 here. Lori, did I miss anyone?  17 So if I got everybody give me a thumbs up.  18 (Whereupon, all Board member signal a  19 thumbs up.)  20 CHAIRMAN FLANAGAN: All right. And the  21 recording is going, is that correct, Lori?  22 (Whereupon, Secretary Taglairino signals a  23 thumbs up.)  24 CHAIRMAN FLANAGAN: Thumbs up. All right.  25 Mr. Simon, we are back.</p>



<p style="text-align: right;">Page 53</p> <p>1 MR. SIMON: Mr. Chairman, don't we usually 2 see like a red dot on the top-left corner noting that 3 it's recording? 4 CHAIRMAN FLANAGAN: Hm. I've never noticed 5 that, but you may be right. 6 MR. MLENAK: You normally do. We do have 7 Iris here, right, in case as a backup? I think I see 8 her. 9 THE COURT REPORTER: Yes, I am here. 10 CHAIRMAN FLANAGAN: Lori, do you believe it 11 is recording? Give me a thumbs up if you think it's 12 recording. 13 (Whereupon, Secretary Taglairino signals a 14 thumbs up.) 15 CHAIRMAN FLANAGAN: Mr. Simon, and Mr. 16 Schneider or Mr. Mlenak, can we proceed at the risk 17 that it is not being recorded on Zoom but we have Ms. 18 LaRosa recording this? 19 MR. MLENAK: Yes. As has happened in the 20 past if the Applicant is willing in the event that it's 21 necessary to share the transcript as the official 22 record I am happy to move forward with the risk that 23 it's not being recorded. 24 MR. FOX: Lori did indicate to me that it 25 is recording on the Courtroom System, just not on Zoom.</p>	<p style="text-align: right;">Page 54</p> <p>1 CHAIRMAN FLANAGAN: Oh, okay. And were we 2 previously recording on the Courtroom System, Lori? 3 Give me a thumbs up if that's the case. 4 (Whereupon, Secretary Taglairino signals a 5 thumbs up). 6 CHAIRMAN FLANAGAN: All right. Mr. Simon, 7 are you comfortable? 8 MR. SIMON: Yes. I'm comfortable. I was 9 just making the comment the for everyone's benefit, 10 frankly. All right. Let me continue then. 11 BY MR. SIMON: 12 Q. Mr. Masters, you can hear me okay? 13 A. I can. 14 Q. Do we know -- and it's similar to the 15 question I had about the location of the equipment 16 compound relative to tree location. Is there a reason 17 why an area of the property wasn't chosen that wasn't 18 so close to the residential properties? 19 A. I personally was not involved in the 20 determination of the actual location of the pole and 21 the equipment compound on the DPW property. It has 22 been my understanding, however, that again the location 23 was given to Verizon Wireless by the township. So I 24 would have no knowledge of why that particular location 25 was chosen. Other than the fact that perhaps it's</p>
<p style="text-align: right;">Page 55</p> <p>1 behind the recycling shed which provides some buffering 2 of the ground equipment, and the fact that it's at a 3 perimeter location of the property as opposed to being 4 smack in the middle of the property, which I would 5 think would become a logical issue for large equipment 6 maneuvering around the DPW yard. 7 Q. When you say that the recycling -- I'm just 8 looking at this now. When you say that the recycling 9 shed provides a buffer, it provides a buffer for whose 10 benefit? 11 A. Just from the overall visibility of the 12 compound. The compound is behind the equipment shed, 13 so it's not readily visible. 14 Q. So it's not readily visible to the people 15 working at the DPW shed? I mean, working at the DPW 16 property? 17 A. Or people visiting the DPW yard. The back 18 of the equipment compound is -- has proposed 19 landscaping. It's at a -- I think, again, not being 20 involved in the actual siting on the property I would 21 think that the objective would be to keep it to the 22 perimeter of the property so that it does not in any 23 way conflict with the overall operation of the DPW 24 yard. 25 Q. Do you know why there wasn't any</p>	<p style="text-align: right;">Page 56</p> <p>1 landscaping proposed within the gravel area that's 2 located to the west of the equipment compound? 3 A. I do not. Only that I have seen equipment 4 stored there in that general area in the past. I don't 5 know if there's any equipment there right now, but in 6 answer to your question I do not know. 7 Q. What type of equipment was stored there in 8 the past? 9 A. I don't recall specifically, but I do 10 remember seeing things stored in that general area. 11 Q. When you say things, what kind of things? 12 Are we talking about machinery, are we talking about 13 vehicles? 14 A. I believe it was machinery. 15 Q. You can't be any more specific than that? 16 A. I cannot. 17 Q. What is the -- well, let me ask it a 18 different way. Did you do an evaluation -- when you 19 looked at the surrounding area, and specifically the 20 residential properties located in R-1 and the R-3 21 Zones, do you know anything about the sizes of those 22 lots? 23 A. I do not. 24 Q. Did you do any type of evaluation of what 25 type of outdoor amenities are currently located on</p>

<p style="text-align: right;">Page 57</p> <p>1 those lots?</p> <p>2 A. Not specifically. I mean, I didn't do an</p> <p>3 analysis of what outdoor facilities were located there.</p> <p>4 You can see that I guess at least one or two have</p> <p>5 swimming pools.</p> <p>6 Q. When you say you can see, are you talking</p> <p>7 about based on the aerials that you have submitted as</p> <p>8 part of this application?</p> <p>9 A. Correct.</p> <p>10 Q. What about other outdoor amenities such as</p> <p>11 patios, decks and things of that nature?</p> <p>12 A. I would suspect that most of them would</p> <p>13 have outdoor decks, indoor patios.</p> <p>14 Q. And do you know the zoning requirements in</p> <p>15 the R-1 and the R-3 Zones for the placement of</p> <p>16 accessory uses and structures on lots located in those</p> <p>17 zones?</p> <p>18 A. Not off the top of my head.</p> <p>19 Q. So you don't know with regard to even the</p> <p>20 properties that are directly adjacent to the DPW</p> <p>21 property how close they can get to the DPW property to</p> <p>22 place an accessory use or structure as of right;</p> <p>23 correct?</p> <p>24 A. Correct.</p> <p>25 Q. And in addition to certainly a backyard or</p>	<p style="text-align: right;">Page 58</p> <p>1 a yard area for a residential use in a residential</p> <p>2 zone, especially single family, would typically be used</p> <p>3 by the family, including the family's children;</p> <p>4 correct?</p> <p>5 A. I would assume so, yes.</p> <p>6 Q. And with regard to the Master Plan that you</p> <p>7 talked about earlier, there's a historic preservation</p> <p>8 element in the Master Plan; correct?</p> <p>9 A. There is.</p> <p>10 Q. And one of the purposes of the Land</p> <p>11 Development Ordinance in Harding Township is to promote</p> <p>12 the conservation of historic sites and districts;</p> <p>13 correct?</p> <p>14 A. Correct.</p> <p>15 Q. And there's actually commentary that talks</p> <p>16 about the fact that Harding's historic resources are in</p> <p>17 jeopardy and that historic preservation is in every</p> <p>18 resident's best interest because it defines the</p> <p>19 character of Harding Township; isn't that correct?</p> <p>20 A. That is correct.</p> <p>21 Q. And in fact, the law that governs municipal</p> <p>22 planning in New Jersey, the Municipal Land Use Law has</p> <p>23 amongst its purposes to promote the conservation of</p> <p>24 historic sites and districts; correct?</p> <p>25 A. Correct.</p>
<p style="text-align: right;">Page 59</p> <p>1 Q. And, in fact, now talking about the Harding</p> <p>2 Ordinance, and specifically the wireless</p> <p>3 telecommunications ordinance that you said you're</p> <p>4 familiar with, there are certain goals that are set</p> <p>5 forth in the ordinance; correct?</p> <p>6 A. Correct.</p> <p>7 Q. And those goals include limiting the impact</p> <p>8 of wireless telecommunication towers and facilities on</p> <p>9 residential and historic areas; correct?</p> <p>10 A. Right.</p> <p>11 Q. And then also to minimize the use of large</p> <p>12 towers by encouraging the location of small antennas on</p> <p>13 existing structures, especially on public or</p> <p>14 quasi-public property; correct?</p> <p>15 A. Correct.</p> <p>16 Q. And again, you didn't -- and I asked you</p> <p>17 earlier about location of antennas on existing</p> <p>18 structures, but I didn't ask you specifically about</p> <p>19 public or quasi-public property. Is it the same</p> <p>20 answer? In other words, you have not done an analysis</p> <p>21 of the ability to locate antennas on existing</p> <p>22 structures that are contained within public or</p> <p>23 quasi-public property?</p> <p>24 A. No. Again, the Presbyterian Church on Lees</p> <p>25 Hill Road was looked at.</p>	<p style="text-align: right;">Page 60</p> <p>1 Q. So the Presbyterian Church was looked at.</p> <p>2 For what purpose?</p> <p>3 A. To put antennas up in the steeple of the</p> <p>4 church.</p> <p>5 Q. Was there any type of analysis to place</p> <p>6 antennas on other -- on structures on that property</p> <p>7 other than within the steeple?</p> <p>8 A. I don't believe so. I believe that height</p> <p>9 was a concern for RF, and then ultimately I believe the</p> <p>10 owners or the landlord indicated they were no longer</p> <p>11 interested.</p> <p>12 Q. And I failed to ask you. You've done no</p> <p>13 analysis of placement of antennas on top of or on any</p> <p>14 of the buildings or structures at the DPW yard;</p> <p>15 correct?</p> <p>16 A. Correct.</p> <p>17 Q. And another goal of the wireless</p> <p>18 telecommunications ordinance is to locate towers in</p> <p>19 non-historic and nonresidential areas; correct?</p> <p>20 A. Again, the ordinance unlimits towers to the</p> <p>21 specified zone districts along 202.</p> <p>22 Q. Right, but the purpose of the Wireless</p> <p>23 Telecommunications Ordinance of Harding Township</p> <p>24 actually states that it's -- one of its goals, specific</p> <p>25 goals is to locate wireless telecommunications towers</p>

<p style="text-align: right;">Page 61</p> <p>1 in non-historic and nonresidential areas; right?</p> <p>2 A. Right.</p> <p>3 Q. And in fact, in the Master Plan one of the</p> <p>4 wireless telecommunications policies is to minimize the</p> <p>5 use of large towers. And it actually states that small</p> <p>6 antennas should be encouraged whenever they can be</p> <p>7 located on existing structures, again, particularly on</p> <p>8 public and quasi-public property; right?</p> <p>9 A. Correct.</p> <p>10 Q. And it goes on to say that, this is the</p> <p>11 Master Plan on the telecommunications ordinance, that</p> <p>12 where large towers are necessary they should be located</p> <p>13 in commercial areas; right?</p> <p>14 A. Well, located, again, in the OB or Business</p> <p>15 Zone east of 202.</p> <p>16 Q. Right. I'm talking about the Master Plan,</p> <p>17 right? And the Master Plan for wireless</p> <p>18 telecommunication policies states that towers should</p> <p>19 not be located in areas where they will have a</p> <p>20 substantial negative impact on the character of</p> <p>21 historic districts, historic sites, and/or residential</p> <p>22 areas; correct?</p> <p>23 A. Correct.</p> <p>24 Q. And you didn't -- you're not aware of any</p> <p>25 investigation with regard to the placement of</p>	<p style="text-align: right;">Page 62</p> <p>1 in-building DAS at the elementary school or at the post</p> <p>2 office; correct?</p> <p>3 A. Correct.</p> <p>4 Q. Are you aware whether small cell DAS,</p> <p>5 whether indoor or outdoor or otherwise, is possible for</p> <p>6 the elementary school or the post office?</p> <p>7 A. Again, I'm not an RF engineer.</p> <p>8 Q. Rick, I'm just asking you as a planner.</p> <p>9 Did you -- as a planner --</p> <p>10 A. As a planner I did not undertake an</p> <p>11 analysis of the feasibility of ODAS at either the post</p> <p>12 office or any other structure in Harding Township.</p> <p>13 Q. What about the possibility of indoor DAS?</p> <p>14 A. No.</p> <p>15 Q. At the elementary school, post office, or</p> <p>16 any other structure?</p> <p>17 A. No. No other structure.</p> <p>18 Q. And the same answer goes for analysis of</p> <p>19 rooftop antennas, for any of those structures; correct?</p> <p>20 A. Correct.</p> <p>21 Q. And you did not undertake any type of</p> <p>22 investigation as a planner for locating any towers in</p> <p>23 non-historic and nonresidential areas; right?</p> <p>24 A. Right.</p> <p>25 Q. And with regard to -- you mentioned at the</p>
<p style="text-align: right;">Page 63</p> <p>1 last meeting I think about the wireless</p> <p>2 telecommunications ordinance for Harding Township where</p> <p>3 it states that wireless towers shall not be erected</p> <p>4 within 1,000 feet of any Historic District or site</p> <p>5 listed on or eligible for listing on the National</p> <p>6 and/or State Register of Historic places; right?</p> <p>7 A. Correct.</p> <p>8 MR. SCHNEIDER: Just to put that into</p> <p>9 context. Mr. Masters mentioned that in conjunction</p> <p>10 with his review of the conditional use standards, which</p> <p>11 he indicated were not applicable to this application.</p> <p>12 MR. SIMON: I acknowledge that, Mr.</p> <p>13 Schneider. Thank you.</p> <p>14 BY MR. SIMON:</p> <p>15 Q. With regard to that provision, though, so</p> <p>16 even in the OB and the B-2 Zones where towers are</p> <p>17 permitted on the eastern side of Route 202, even if you</p> <p>18 found the site --</p> <p>19 A. They are not permitted, they are</p> <p>20 conditionally permitted.</p> <p>21 Q. Conditionally permitted. Even if they're</p> <p>22 conditionally permitted they cannot be erected within a</p> <p>23 thousand feet of any Historic District; correct?</p> <p>24 A. As a conditional use requirement in those</p> <p>25 specific locations; correct.</p>	<p style="text-align: right;">Page 64</p> <p>1 Q. And this property, this DPW property, is</p> <p>2 located within a thousand feet of a Historic District;</p> <p>3 right?</p> <p>4 A. It is.</p> <p>5 Q. And it's within a thousand feet of a site</p> <p>6 listed on or eligible for listing on the National or</p> <p>7 State Register of historic places; right?</p> <p>8 A. Correct.</p> <p>9 Q. And with regard to the -- you talked</p> <p>10 earlier, Rick, about the New Vernon, you know, the area</p> <p>11 of New Vernon. So you're familiar with the New Vernon</p> <p>12 Historic District; correct?</p> <p>13 A. Correct.</p> <p>14 Q. Are you aware of the extent of the</p> <p>15 district?</p> <p>16 A. Yes, I am.</p> <p>17 Q. And so the Mellick-Tully (sic) house,</p> <p>18 that's in the Historic District; right?</p> <p>19 A. I'm sorry. The what house?</p> <p>20 Q. What is it, the Tunis --</p> <p>21 A. Ellicks House.</p> <p>22 Q. The Ellicks House. Excuse me. That's a</p> <p>23 historic site in the Historic District; correct?</p> <p>24 A. It is.</p> <p>25 Q. Other than that property are there other</p>

<p style="text-align: right;">Page 65</p> <p>1 sites within -- are there sites, excuse me, within a</p> <p>2 thousand feet of the subject property that are located</p> <p>3 within the New Vernon Historic District?</p> <p>4 A. Other than what property?</p> <p>5 Q. Other than the DPW property?</p> <p>6 A. Are there other sites that are located?</p> <p>7 Q. Are there other properties within a</p> <p>8 thousand feet of the subject property that are within</p> <p>9 the New Vernon Historic District?</p> <p>10 A. Well, yeah. There's other properties that</p> <p>11 are within a thousand feet of the Historic District.</p> <p>12 Q. No. A thousand feet of this property that</p> <p>13 are within the Historic District?</p> <p>14 A. I'm not understanding your question.</p> <p>15 Q. Okay. So the subject property is a bow tie</p> <p>16 property; correct?</p> <p>17 A. Correct.</p> <p>18 Q. And within a thousand feet of this property</p> <p>19 in all directions are properties that are located</p> <p>20 within the New Vernon Historic District; correct?</p> <p>21 A. Correct.</p> <p>22 Q. Do you know how many properties are located</p> <p>23 within the New Vernon Historic District within 1,000</p> <p>24 feet of this property?</p> <p>25 A. Within the district I do not know how many</p>	<p style="text-align: right;">Page 66</p> <p>1 properties.</p> <p>2 Q. And you're aware that the district was</p> <p>3 designated as a State and National Register for</p> <p>4 Historic District in like 1982; right?</p> <p>5 A. Well, parts of it were, yeah.</p> <p>6 Q. And then there was a larger area that was</p> <p>7 designated as a municipal Historic District in 1993;</p> <p>8 right?</p> <p>9 A. Right.</p> <p>10 Q. And so, you know, you mentioned, Rick, I</p> <p>11 guess in reviewing your visual impact study, that a</p> <p>12 number of the properties that you took photos from, I</p> <p>13 guess within the right-of-way, were within the State</p> <p>14 and National.</p> <p>15 Register of Historic District; is that</p> <p>16 correct?</p> <p>17 A. Correct.</p> <p>18 Q. And those properties pursuant to your</p> <p>19 visual impact study, would have varying views of the</p> <p>20 proposed tower; right?</p> <p>21 A. Correct.</p> <p>22 Q. And other than the properties that you show</p> <p>23 on your visual impact studies that have views of the</p> <p>24 tower, do you know how many other properties that are</p> <p>25 located within the Historic District that will have a</p>
<p style="text-align: right;">Page 67</p> <p>1 view of the proposed tower?</p> <p>2 A. I do not. I did not traverse all of the</p> <p>3 properties within the New Vernon Historic District.</p> <p>4 Q. Okay. And I did review -- I know that the</p> <p>5 Applicant submitted some correspondence related to the</p> <p>6 municipal building, or Kirby Hall as it's called, but</p> <p>7 with regard to your planning evaluation is it fair to</p> <p>8 say that as a planner that a monopole at the Kirby Hall</p> <p>9 Municipal Property would be less impactful to the</p> <p>10 Historic District, as compared to a monopole within or</p> <p>11 that is surrounded by the Historic District, such as</p> <p>12 the DPW area?</p> <p>13 A. Well, I of course did not do a visual</p> <p>14 analysis at Kirby Hall or the Kirby Hall property</p> <p>15 relative to a monopole at that location, but I guess</p> <p>16 common sense would dictate that given its -- or given</p> <p>17 the proximity of the DPW yard to the New Vernon</p> <p>18 Historic District, compared to the distance from Kirby</p> <p>19 Hall to the New Vernon Historic District, that the</p> <p>20 visual impact would likely be less at Kirby Hall to the</p> <p>21 New Vernon Historic District?</p> <p>22 Q. And you mentioned also about the New Vernon</p> <p>23 Village Redevelopment Plan; right?</p> <p>24 A. Correct.</p> <p>25 Q. And you're aware that the Redevelopment</p>	<p style="text-align: right;">Page 68</p> <p>1 Plan states in part that a portion of New Vernon</p> <p>2 Village has been designated as an area in need of</p> <p>3 redevelopment; correct?</p> <p>4 A. Correct.</p> <p>5 Q. And you're familiar with areas in need of</p> <p>6 redevelopment designations under the local</p> <p>7 redevelopment and housing; right?</p> <p>8 A. I am.</p> <p>9 Q. And you're aware that in February -- I</p> <p>10 think it was February of 2003, that the township</p> <p>11 committee designated 13 lots in the center core of The</p> <p>12 Village to be subject to the Redevelopment Plan; right?</p> <p>13 A. That's correct.</p> <p>14 Q. And the purpose of the redevelopment was to</p> <p>15 promote the I think it was talked about the</p> <p>16 restoration, revitalization of the area consistent with</p> <p>17 its historic roots; right?</p> <p>18 A. Yeah. And you know, specific uses,</p> <p>19 specific land uses or facilities that there was a</p> <p>20 desire that they be encouraged to locate in that</p> <p>21 particular area.</p> <p>22 Q. And the redevelopment area that I'm</p> <p>23 speaking of is within the State and National Register</p> <p>24 Historic District, as well as the Municipal Historic</p> <p>25 District; correct?</p>

<p style="text-align: right;">Page 69</p> <p>1 A. It is.</p> <p>2 Q. And the -- among the objectives of the</p> <p>3 Redevelopment Plan certainly is the preservation of the</p> <p>4 historic character and the integrity of New Vernon</p> <p>5 Village; right?</p> <p>6 A. Correct.</p> <p>7 Q. And among the objectives of the</p> <p>8 Redevelopment Plan is also to diminish the visual</p> <p>9 obtrusiveness of utility lines and poles; correct?</p> <p>10 A. Correct.</p> <p>11 Q. And the Redevelopment Plan also states that</p> <p>12 nonresidential uses should be of a scale and an</p> <p>13 intensity that will be compatible with existing</p> <p>14 residences and historic structures; correct?</p> <p>15 A. Correct.</p> <p>16 Q. And that The Redevelopment plan, you talked</p> <p>17 about in certain areas about redevelopment, but the</p> <p>18 Redevelopment Plan calls for those design guidelines</p> <p>19 for new construction to promote the preservation of</p> <p>20 historic integrity and character; is that correct?</p> <p>21 A. That's correct.</p> <p>22 Q. Right. And the Redevelopment Plan also</p> <p>23 states, and then I'll move off of this, that its</p> <p>24 objectives are guided by the principles of preserving</p> <p>25 the character of The Village, encouraging historic</p>	<p style="text-align: right;">Page 70</p> <p>1 preservation, and also maintaining a balance between</p> <p>2 residential and commercial land uses; isn't that</p> <p>3 correct?</p> <p>4 A. Yes, that's correct.</p> <p>5 Q. Okay. And that 12 of the lots in the</p> <p>6 redevelopment area are privately owned with the</p> <p>7 Tunis-Ellicks House, the DPW facility comprising the</p> <p>8 13th lot which is owned by the township; right?</p> <p>9 A. Correct.</p> <p>10 Q. Okay. And did you review, Rick, the map</p> <p>11 that is part of the Redevelopment Plan that identifies</p> <p>12 the contributions of the various areas to the Historic</p> <p>13 District?</p> <p>14 A. If we're talking about the Historic</p> <p>15 District, yes, I did.</p> <p>16 Q. And if you recall then that the DPW lot was</p> <p>17 noted as being as key contributing to the New Vernon</p> <p>18 Historic District, and that it was one of only three</p> <p>19 lots in the entire Historic District that has that</p> <p>20 distinction?</p> <p>21 A. It was. And it was obviously because of</p> <p>22 the presence of the Tunis-Ellicks House.</p> <p>23 Q. Sure. And the new -- and in fact the New</p> <p>24 Vernon Fire Department was also noted as contributing,</p> <p>25 right, to the Historic District?</p>
<p style="text-align: right;">Page 71</p> <p>1 A. No. According to my map of the New Vernon</p> <p>2 Historic District the firehouse is not within the</p> <p>3 Historic District.</p> <p>4 Q. And that it doesn't contribute to it?</p> <p>5 A. Well, it's not within the Historic</p> <p>6 District. The contributing -- the contributing</p> <p>7 structures to the Historic District was the</p> <p>8 Tunis-Ellicks House, the New Vernon Presbyterian</p> <p>9 Church, or I should say, I guess, it's the First</p> <p>10 Presbyterian Church of New Vernon. The property that's</p> <p>11 referred to as The Academy, which is a property on</p> <p>12 village Road. And the property that I referred to as</p> <p>13 the Schroeder Property, which was -- which is at the</p> <p>14 corner of Lees Hill Road and Village Road, which at one</p> <p>15 time was the William C. Tunis House and store.</p> <p>16 Q. And all those properties are located within</p> <p>17 the New Vernon Historic District; correct?</p> <p>18 A. Yes. The New Vernon Academy, by the way,</p> <p>19 is Block 18 Lot 3 On Village Road. So those were the</p> <p>20 four contributing properties.</p> <p>21 Q. The elementary school not contributing;</p> <p>22 correct?</p> <p>23 A. Elementary school not contributing, but was</p> <p>24 recognized in the Historic Plan Element as -- because</p> <p>25 of the way it was constructed back in the 1930s was a</p>	<p style="text-align: right;">Page 72</p> <p>1 property that was eligible for inclusion in the State</p> <p>2 and Federal Register.</p> <p>3 Q. Okay. Was it ever included in the State</p> <p>4 and Federal Register?</p> <p>5 A. Not to my knowledge.</p> <p>6 Q. And what about the fire department, was</p> <p>7 that -- did that have any distinction in the Master</p> <p>8 Plan?</p> <p>9 A. I don't recall seeing that mentioned within</p> <p>10 the Historic Plan Element. And again it is definitely</p> <p>11 outside of the New Vernon Historic District.</p> <p>12 Q. Let me move on then. And by the way,</p> <p>13 there's one other question about the elementary school.</p> <p>14 We heard a long time ago, testimony regarding a</p> <p>15 request, I believe, by Verizon to put the tower I guess</p> <p>16 maybe toward the front of the property adjacent to the</p> <p>17 road or near the road. Are you aware of any effort by</p> <p>18 Verizon to put a tower at the elementary school</p> <p>19 property in the rear of that property?</p> <p>20 A. No. I don't believe there was, because</p> <p>21 when you get back to the far rear of the property where</p> <p>22 the athletic fields are, the elevation drops quite</p> <p>23 significantly.</p> <p>24 Q. Rick, do you know what the elevation is at</p> <p>25 that location?</p>

<p style="text-align: right;">Page 73</p> <p>1 A. No. I don't know the specific elevation.</p> <p>2 Q. And you don't know the elevation of that</p> <p>3 location relative to the elevation at the DPW yard;</p> <p>4 correct?</p> <p>5 A. I would say the elevation, certainly at the</p> <p>6 front of the school, would be higher than the elevation</p> <p>7 at the DPW yard.</p> <p>8 Q. The elevation at the school would be higher</p> <p>9 than the elevation at the DPW yard; correct?</p> <p>10 A. I'm sorry?</p> <p>11 Q. The elevation at the front of the school</p> <p>12 would be higher than the elevation at the DPW yard;</p> <p>13 correct?</p> <p>14 A. Yes, I believe it would be.</p> <p>15 Q. And then at the rear of the elementary</p> <p>16 school, in the corner there, would -- do you know what</p> <p>17 the elevation is there relative to the DPW yard?</p> <p>18 A. I do not.</p> <p>19 Q. Moving onto your visual impact studies.</p> <p>20 Does the faux tree in your latest visual impact study</p> <p>21 correspond to the faux tree on the engineer's site</p> <p>22 plan?</p> <p>23 A. The faux tree on the engineer's site plan</p> <p>24 is strictly an engineering architectural elevation of</p> <p>25 the tree pole. It does not in any way have any intent</p>	<p style="text-align: right;">Page 74</p> <p>1 to depict the true character of the branching habit of</p> <p>2 the tree pole. Again, I had indicated at the hearing I</p> <p>3 think back in March that the -- for purposes of the</p> <p>4 photo simulations of the faux tree, that it was modeled</p> <p>5 after the tree pole that had been constructed at the</p> <p>6 Delbarton School in Morris Township.</p> <p>7 Q. Right. Have you been to the Delbarton</p> <p>8 School at Morris Township to view that faux tree</p> <p>9 recently?</p> <p>10 A. Well, I don't know. You know, depends on</p> <p>11 what recently is --</p> <p>12 Q. In the last --</p> <p>13 A. I haven't been there since before the</p> <p>14 Pandemic, but I was -- I was the planner for that</p> <p>15 application.</p> <p>16 Q. I'm aware of that, but I also recall that</p> <p>17 that application was in what, 2009?</p> <p>18 A. No. I think it was actually earlier than</p> <p>19 that.</p> <p>20 Q. 2006?</p> <p>21 A. I could be wrong.</p> <p>22 Q. So if my memory serves, and ironically I'm</p> <p>23 actually working on an application currently at the</p> <p>24 Delbarton School, that that faux tree monopole was</p> <p>25 originally approved in 2006 with a collocater, I</p>
<p style="text-align: right;">Page 75</p> <p>1 believe, in 2009. And that's located along Route 24;</p> <p>2 right?</p> <p>3 A. That is correct. Right down off of the</p> <p>4 east gate entrance to the school.</p> <p>5 Q. So have you been to that -- to view that</p> <p>6 tree, faux tree at any time post 2009?</p> <p>7 A. Yeah. Probably. I've probably been over</p> <p>8 there during that time frame. My recollection was the</p> <p>9 last time I was there there were two carriers on the</p> <p>10 pole. I think the other one was T-Mobile, I think.</p> <p>11 Q. So Mr. Masters, if the faux tree that's</p> <p>12 depicted on the Applicant's site plan is not the</p> <p>13 elevation that would be constructed if this application</p> <p>14 was approved, then what is the Board approving if they</p> <p>15 were to approve this application? Are they approving</p> <p>16 the faux tree that's in your photo simulation?</p> <p>17 A. Well, again, the intent of the photo</p> <p>18 simulation is to depict what the as-built condition</p> <p>19 would look like. And of course, the height of the pole</p> <p>20 would depend upon the simulation that would correspond</p> <p>21 -- there were photo simulations done of the tree pole</p> <p>22 at three different heights.</p> <p>23 Q. Right. Let me ask it, Rick, a different</p> <p>24 way, because my question was not a good one. My</p> <p>25 question is this. If -- and I'll ask it a different</p>	<p style="text-align: right;">Page 76</p> <p>1 way. If the construction official or Mr. Fox goes out</p> <p>2 -- if this application is approved for a faux tree at a</p> <p>3 hundred feet, and the Applicant says that they're done</p> <p>4 with the construction and they want their certificate</p> <p>5 of approval, and the construction official, building</p> <p>6 inspector, whomever goes out to look at the finished</p> <p>7 product, what is he or she comparing what they're</p> <p>8 looking at to, are they comparing it to your visual</p> <p>9 impact study? It sounds like they're not comparing it</p> <p>10 to the site plan.</p> <p>11 A. I would assume that they would compare it</p> <p>12 to the visual impact study.</p> <p>13 MR. SCHNEIDER: The simple answer to that</p> <p>14 is if, in fact, the Board decided that a tree is -- let</p> <p>15 me go back.</p> <p>16 Mr. Fox raised the issue early on many</p> <p>17 years ago as this application has gone on and we agreed</p> <p>18 that we would provide, if the Board so inclined to</p> <p>19 grant approval for the tree, that we would provide</p> <p>20 specifications consistent with the design of the tree</p> <p>21 at Delbarton. And I reiterate and reconfirm our</p> <p>22 willingness to do that.</p> <p>23 MR. SIMON: Okay. Thank you, Mr.</p> <p>24 Schneider.</p> <p>25 Q. The -- and I guess it's a similar question,</p>

<p style="text-align: right;">Page 77</p> <p>1 and maybe, Rich, you're maybe the right person to  2 answer this, or the flagless flagpole.  3 So I'll start with Mr. Masters. So there's  4 no plan certainly currently as to the dimensions,  5 height, specifications for a flagless flagpole. I  6 understand that you just put it in as part of your  7 visual impact study. Is the intent the same -- in  8 other words, that if the -- is it the Applicant's  9 position that were the Board to approve, you know, in  10 this hypothetical the flagless flagpole, that the  11 Applicant would submit subsequently the elevation with  12 those types of specifications?  13 A. Well, again, the simulations to the  14 flagpole are relevant in terms of the height, as well  15 as the base dimension and the top of pole. And  16 presumably the pole would be constructed to replicate  17 what the photo simulation depicts.  18 MR. SCHNEIDER: And let me add, the same  19 offer is made or the same stipulation is made subject  20 to everyone's additional recollection that there was  21 previous expensive discussion about the diameter of the  22 flagpole brought up by Dr. Eisenstein and responded to  23 by Mr. Marowski. And I think if we review the  24 transcript he indicated in pretty specific specificity  25 the diameter of the pole as it tapers, et cetera. So</p>	<p style="text-align: right;">Page 78</p> <p>1 there was specific testimony that was presented about  2 the diameter of the flagpole as it increases the  3 height.  4 And for the Board's edification the whole  5 point of that discussion in large measure was in part  6 brought about by the issue initially raised by the  7 Chair about how you would run the cable up if there was  8 an extension.  9 So for everyone's recollection there was  10 actually very specific testimony about the diameter of  11 the flagpole; et cetera.  12 MR. SIMON: Thank you, Mr. Schneider.  13 BY MR. SIMON:  14 Q. Mr. Masters, how did you determine where to  15 take your photos from in your visual impact study?  16 A. Where I can see it when I'm out driving  17 around when the crane is up in the air.  18 Q. And this is the crane test from back in  19 February 27th of 2018; right?  20 A. That's correct.  21 Q. And were there areas that you could see the  22 pole but you -- and you took a photo, but you just  23 didn't submit it to the Board?  24 A. No. I took photographs from locations  25 where I could see the pole. I mean, if I could see it</p>
<p style="text-align: right;">Page 79</p> <p>1 from a location on Village Road specifically, you know,  2 I obviously wouldn't take pictures like every five or  3 six feet, but the vantage points from where the  4 photographs were taken during the crane test are  5 indicative of where the pole was visible from at 140  6 feet.  7 Q. So is it your testimony that if you didn't  8 submit a photograph from a certain location that was  9 accessible via a right-of-way, that it's your planning  10 -- professional planning opinion that you couldn't see  11 the tower from that location?  12 A. Obviously, if I couldn't see the tower from  13 a location I did not take a picture from that location.  14 Q. Right. So you're saying that if you didn't  15 submit a photo of a particular location, that means in  16 other locations you couldn't see the tower?  17 A. I obviously -- it would be impossible to  18 you know, scour the entire viewshed to determine each  19 and every location where that pole would be visible  20 from. Again, the eight vantage points from where the  21 photographs were taken were reflective of where that  22 crane had the greatest visibility.  23 Q. When you say the greatest visibility, is  24 there a reason why there's no photograph from the post  25 office property?</p>	<p style="text-align: right;">Page 80</p> <p>1 A. No. It was because there was a photograph  2 taken from right in front of the post office property,  3 which is by the way within the New Vernon Village  4 Historic District.  5 Q. And did you take any photos near or on the  6 other side of Glen Alpin, or Lees Hill Road or Village  7 Road or Blue Mill Road?  8 A. I drove those areas and did not see the  9 pole from there, I should say the crane from there. I  10 did not see it from Glen Alpin. I did not see it from  11 Blue Mill Road. And I did not see it from Lees Hill  12 Road.  13 Q. What about from Village Road?  14 A. Well, yeah. Views two and three were taken  15 from Village Road.  16 Q. So other than the picture -- there's no  17 additional pictures that are not in your photo array,  18 right, that show the tower?  19 A. Correct.  20 Q. And the locations where you took the  21 photographs, did you identify the elevations at those  22 locations?  23 A. No, I did not.  24 Q. And the locations where you took the  25 photos, are they all from public property?</p>

<p style="text-align: right;">Page 81</p> <p>1 A. No, they're not.</p> <p>2 Q. So for the ones that are on private</p> <p>3 property, so I believe -- it looks like the backyard of</p> <p>4 7 Lees Hill Road, 14 Village Road, I think the driveway</p> <p>5 of 28 Millbrook Road, right, those are private</p> <p>6 properties?</p> <p>7 A. Correct.</p> <p>8 Q. And how did you gain access to those</p> <p>9 properties to take photographs?</p> <p>10 A. I went onto those properties. At the</p> <p>11 beginning of the crane test there was a gentleman there</p> <p>12 who gave me his business card, and identified himself</p> <p>13 as -- well, the business card said he was the Mayor.</p> <p>14 And he told me that I had -- and these were the words</p> <p>15 that he used -- I had unfettered access to whatever</p> <p>16 properties I wanted to take photographs from.</p> <p>17 Q. So this is at the crane test of</p> <p>18 February 27th, 2018?</p> <p>19 A. Correct.</p> <p>20 Q. And when the -- that person gave you their</p> <p>21 business card did that business card say Chris Yates on</p> <p>22 it as Mayor?</p> <p>23 A. No.</p> <p>24 Q. What did it say?</p> <p>25 A. Nicolas Platt.</p>	<p style="text-align: right;">Page 82</p> <p>1 Q. And was Mr. Platt the Mayor at the time?</p> <p>2 A. I have no idea. He gave me his business</p> <p>3 card. It had Mayor on it.</p> <p>4 Q. And in terms of when he said you had</p> <p>5 unfettered access, did you take that to mean that you</p> <p>6 had unfettered access that day or any day?</p> <p>7 A. Well, no. I assumed during the duration of</p> <p>8 the crane test.</p> <p>9 Q. So when he told you you had unfettered</p> <p>10 access during the duration of the crane test --</p> <p>11 A. Well, he didn't say "during the duration of</p> <p>12 the crane test." He told me I had unfettered access to</p> <p>13 take photographs from wherever I wanted.</p> <p>14 Q. So when he told you that, how did you</p> <p>15 respond?</p> <p>16 A. I said okay.</p> <p>17 Q. Okay. So then based on that unfettered</p> <p>18 access, that's what led you to proceed to the backyards</p> <p>19 of 7 Lees Hill Road and 14 Village Road and the</p> <p>20 Driveway of 28 Millbrook Road?</p> <p>21 A. Correct.</p> <p>22 Q. Did you seek the permission -- not</p> <p>23 withstanding your unfettered access -- did you seek the</p> <p>24 permission of the property owners of any of those</p> <p>25 properties to take photos from their properties?</p>
<p style="text-align: right;">Page 83</p> <p>1 A. I did not.</p> <p>2 Q. Why did you pick 7 Lees Hill Road, 14</p> <p>3 Village Road, and 28 Millbrook Road if you had</p> <p>4 unfettered access to any property?</p> <p>5 A. Because those were the properties that I</p> <p>6 could readily see it from.</p> <p>7 Q. I'm sorry, Rick. What's that?</p> <p>8 A. Those were the properties that I could</p> <p>9 readily see the crane from.</p> <p>10 Q. How do you know that you couldn't readily</p> <p>11 see the crane from other private properties until you</p> <p>12 actually set foot on them to view the tower, view the</p> <p>13 --</p> <p>14 A. Well, I obviously didn't walk all the</p> <p>15 properties in the area. Many of the properties there</p> <p>16 are gated.</p> <p>17 Q. What do you mean by gated?</p> <p>18 A. I said gated.</p> <p>19 Q. Oh, gated. I apologize.</p> <p>20 A. So those were the properties that had the</p> <p>21 greatest visibility of the crane.</p> <p>22 Q. Did you go on other non-gated properties to</p> <p>23 assess whether you could see the crane from those</p> <p>24 properties?</p> <p>25 A. No. I don't believe I did.</p>	<p style="text-align: right;">Page 84</p> <p>1 Q. So other than 7 Lees Hill Road, 14 Village</p> <p>2 Road, and 28 Millbrook Road can you identify what other</p> <p>3 private properties that you accessed to assess whether</p> <p>4 you could see the crane?</p> <p>5 A. I would say none, except for Copper Tree</p> <p>6 Lane I understand is a private road. Although the</p> <p>7 director of the DPW indicated that they plow the snow</p> <p>8 there. And I took photographs from Copper Tree Lane.</p> <p>9 Q. Did you submit those to the Board?</p> <p>10 A. Yeah. There's -- I guess it's photograph</p> <p>11 number four.</p> <p>12 Q. And other than these three private</p> <p>13 properties that I keep referring to, did your right of</p> <p>14 unfettered access lead you to go on any other private</p> <p>15 property, whether it was gated or not?</p> <p>16 A. No.</p> <p>17 BOARD MEMBER NEWLIN: Rob, I'm sorry. Can</p> <p>18 you just repeat those properties?</p> <p>19 MR. SIMON: Sure. I believe, Alf, and I'm</p> <p>20 just going by memory here. I think that the three --</p> <p>21 and Mr. Masters, please correct me if I'm wrong. I</p> <p>22 think the three properties that you supplied photos</p> <p>23 from were 7 Lees Hill Road, 14 Village Road, and 28</p> <p>24 Millbrook Road. Is that accurate, Mr. Masters?</p> <p>25 THE WITNESS: Yes. That's correct.</p>



<p style="text-align: right;">Page 85</p> <p>1 BOARD MEMBER NEWLIN: Thank you, Rob.</p> <p>2 MR. SIMON: Go ahead. I'm sorry. Alf, did</p> <p>3 you --</p> <p>4 BOARD MEMBER NEWLIN: No. I was saying</p> <p>5 thank you.</p> <p>6 BY MR. SIMON:</p> <p>7 Q. Okay. Is there -- let me put it to you</p> <p>8 this way. Notwithstanding your unfettered access, did</p> <p>9 you seek permission from any private property owner to</p> <p>10 go on their property to assess whether you could see</p> <p>11 the crane from their property?</p> <p>12 A. No.</p> <p>13 Q. Now, did you have -- other than being told</p> <p>14 that you had unfettered access, did you speak to any</p> <p>15 other township official in connection with your</p> <p>16 activities during the crane test on February 27th,</p> <p>17 2018?</p> <p>18 A. No. I did not. Or I should say, I did</p> <p>19 speak to the director of the public works regarding the</p> <p>20 status of Copper Tree Lane.</p> <p>21 Q. Now, did you speak to him about the status</p> <p>22 of Copper Tree Lane because you intended to traverse on</p> <p>23 it or drive on it?</p> <p>24 A. Yes.</p> <p>25 Q. And you ended up doing that; right?</p>	<p style="text-align: right;">Page 86</p> <p>1 A. Yes.</p> <p>2 Q. Did you -- but you didn't go on any of the</p> <p>3 properties on Copper Tree Lane; correct?</p> <p>4 A. Correct.</p> <p>5 Q. And with regard to the equipment compound</p> <p>6 you are going to see the equipment compound from</p> <p>7 certain properties as well; correct?</p> <p>8 A. I believe you may, yes.</p> <p>9 Q. And I noted that the -- on the site plan,</p> <p>10 that there's a post and wire fence that is surrounding</p> <p>11 the property, correct, in that location of the -- of</p> <p>12 where the compound's going?</p> <p>13 A. Correct.</p> <p>14 Q. And it actually notes that that post and</p> <p>15 wire fence is "in ruins"; right?</p> <p>16 A. Right.</p> <p>17 Q. So if that -- even though it's in ruins, if</p> <p>18 that post and wire fence is down -- first of all, do</p> <p>19 you know whose property that post and wire fence is on?</p> <p>20 A. I do not.</p> <p>21 Q. If it comes down and it's not replaced that</p> <p>22 will lead to the equipment compound being more readily</p> <p>23 visible to the immediately surrounding properties;</p> <p>24 correct?</p> <p>25 A. I believe the intent is to construct a</p>
<p style="text-align: right;">Page 87</p> <p>1 board-on-board fence around the equipment compound.</p> <p>2 Q. And it showed -- well, the board-on-board</p> <p>3 fence that's surrounding the compound, correct,</p> <p>4 immediately?</p> <p>5 A. Correct.</p> <p>6 Q. So with regard to the plans, the site plan</p> <p>7 where it shows that there's some trees that I guess</p> <p>8 previously were planted, do you know what the statuses</p> <p>9 of those trees in terms of their health? Have you done</p> <p>10 an assessment of those?</p> <p>11 It looks like it's a single row of some</p> <p>12 form of white pine or something?</p> <p>13 A. I'm not sure what you're referring to.</p> <p>14 Q. So there's some -- there's a single row of</p> <p>15 trees on the site plan that surround the property on</p> <p>16 the DPW side. Do you know whether those trees were</p> <p>17 actually installed?</p> <p>18 A. I do not know.</p> <p>19 Q. And again, the new building at the DPW site</p> <p>20 that you testified to, that's not depicted anywhere</p> <p>21 on -- either on your aerial or when the crane test was</p> <p>22 conducted; right?</p> <p>23 A. Correct. That was constructed, I guess, a</p> <p>24 year to 18 months afterwards.</p> <p>25 Q. And the aerial that you -- the Google Maps</p>	<p style="text-align: right;">Page 88</p> <p>1 aerial that you submitted with your visual impact</p> <p>2 study, does that encompass the entire Municipal</p> <p>3 Historic District?</p> <p>4 A. I believe it pretty much does, yes.</p> <p>5 Q. And you said that the difference between</p> <p>6 the crane test location and the actual location of the</p> <p>7 monopole's like 27 feet you said, Rick?</p> <p>8 A. In one direction, and 18 inches in the</p> <p>9 other direction.</p> <p>10 Q. With regard to the, I guess, the planting</p> <p>11 of the trees and the removal of trees, are you aware</p> <p>12 whether anyone did an assessment as to whether any of</p> <p>13 the trees that are slated to remain or dead, diseased</p> <p>14 or dying?</p> <p>15 A. I did not.</p> <p>16 Q. And do you know whether any trees that were</p> <p>17 depicted in your visual impact study from February 27,</p> <p>18 2018, have been cut down, fallen or been trimmed?</p> <p>19 A. Don't know.</p> <p>20 Q. And remind me, and just so the record's</p> <p>21 clear, if the crane test was done on February 27th,</p> <p>22 2018, didn't you take some additional photos on</p> <p>23 April 6th, 2018, or am I mistaken?</p> <p>24 A. April 6th, 2018. Not that I recall.</p> <p>25 Q. And so you didn't submit any photos to the</p>

<p style="text-align: right;">Page 89</p> <p>1 Board that were taken in early February of 2018,  2 right -- early April, excuse me?  3 A. I don't recall.  4 Q. And with regard to the trees as a planner,  5 in terms of the trees that are slated to remain you  6 didn't do an evaluation of which trees are actually on  7 the DPW property as opposed to the adjacent property;  8 correct?  9 A. Correct.  10 Q. And do you know in terms of the trees that  11 are going to be planted as a planner how fast they  12 grow?  13 A. I do not.  14 Q. And other than the flagless flagpole and  15 the faux tree, as a planner did you consider any other  16 stealthing design?  17 A. No. Other than, you know, there was some  18 discussion about just a conventional monopole with no  19 camouflage, but the thought was to simulate the tree  20 pole and the flagpole.  21 Q. By the way, with regard to the Delbarton  22 tower that you're talking about, do you recall how  23 close the nearest residential property was to that  24 tower?  25 A. Not distance-wise, but directly across</p>	<p style="text-align: right;">Page 90</p> <p>1 Mendham Road.  2 Q. Across from the highway? Across from Route  3 24; right?  4 A. Well, yeah. You can call it a highway, but  5 don't confuse Route 24 in Morris Township with, you  6 know, Route 24 going down to Route 78.  7 Q. I would agree with you?  8 A. Thank you.  9 Q. But still it's a state roadway; correct?  10 A. It is. It's a two-lane state roadway.  11 Q. Right. And do you recall -- you must  12 recall for that application that there was a concern  13 that the cell -- whether the cell tower would be seen  14 from Jockey Hollow National Park?  15 A. I seem to recall that, yes.  16 Q. And do you remember how far Jockey Hollow  17 is from that cell tower?  18 A. I do not.  19 Q. And in terms of -- you also mentioned  20 during your testimony the flagpole -- a flagless  21 flagpole at the Mendham Shopping Center; right?  22 A. Correct.  23 Q. That only has two carriers; correct?  24 A. That's what appeared to be there when I was  25 there, yes.</p>
<p style="text-align: right;">Page 91</p> <p>1 Q. And you're not aware of any applications  2 for a third carrier for that location; right?  3 A. I am not.  4 Q. And with regard to this particular  5 application, other than Verizon, are you aware of any  6 other carrier that has an interest in collocating at  7 this property?  8 A. No.  9 Q. We've talked about this before. But you  10 would agree with what you heard by way of testimony in  11 terms of the legal right of the tower to be increased  12 by an additional ten percent in height without any  13 subsequent Board approval?  14 A. I have heard that.  15 Q. And that's on the Federal and state level?  16 A. Yes.  17 MR. SCHNEIDER: Just so we're clear. To  18 put the context -- the question in some context. It's  19 ten percent under state law, it's 20 feet under Federal  20 law subject to other conditions, but as we have ad  21 nauseam discussed, any right to extend the subject to  22 the approval of the landowner, in this case being the  23 Township of Harding. Just to put the question and the  24 answer in the proper perspective.  25 MR. SIMON: Well, is it -- well, it's a</p>	<p style="text-align: right;">Page 92</p> <p>1 legal question. We'll talk about it later.  2 BY MR. SIMON:  3 Q. Do you know what the average height of the  4 trees are in the area, Mr. Masters?  5 A. I don't know specifically. I'd say they're  6 probably in the maybe 65- to 80-foot height.  7 Q. And what are you basing 65 to 80 feet on?  8 A. Just based upon, you know, looking at the  9 trees in the general area, but I have not done any kind  10 of analysis as to what the prevailing tree height is.  11 Q. And have you done any type of analysis as  12 to lands that are at a particular elevation that may be  13 appropriate to site a cell tower?  14 A. In Harding Township?  15 Q. Yes.  16 A. Elevation-wise, no.  17 Q. So for example, if I were to tell you that,  18 you know, Lees Hill Road has a ground elevation of  19 approximately 450 feet, or almost a hundred feet higher  20 than this location. But you haven't done an analysis  21 of that relative to this application; right?  22 A. I have not. That of course would depend on  23 where you're standing on Lees Hill Road. Lees Hill  24 Road continues to increase in elevation past the  25 Harding School until it reaches its peak probably, I</p>

<p style="text-align: right;">Page 93</p> <p>1 don't know, maybe two or 300 yards west of the Harding 2 School. 3 Q. Okay. And other than what has been 4 previously testified to relative to this application 5 you haven't conducted any independent investigation as 6 a professional planner as to the existence of large or 7 structures within a two-mile radius of a DPW site; 8 correct? 9 A. Large structures? 10 Q. Like, you know, such as another tower, high 11 tension towers, nonresidential structures, water tanks, 12 anything like that? 13 A. Within what distance of the DPW? 14 Q. Two-mile radius? 15 A. Two-mile radius? No. But I'm not aware of 16 any on Lees Hill Road. I'm not aware of any on Glen 17 Alpin Road. There's obviously the existing towers. 18 There's one on 202 down by the municipal boundary with 19 Bernards Township. There's the tree pole at the rest 20 stop on 287, and then there's the cluster-mounted 21 monopole there at the Harter Road exit on 287. 22 Q. Any others you're familiar with? 23 A. Not to come to mind. 24 Q. And do you know whether Verizon did any 25 type of investigation to site a tower or wireless</p>	<p style="text-align: right;">Page 94</p> <p>1 facility at the park across the way? 2 A. You're talking about at the -- at the pond 3 there? 4 Q. Yes. At that property? 5 A. No, I am not. 6 Q. And you're not aware of whether there's any 7 plan or proposed plan by any other carrier; correct? 8 A. I am not aware of any. 9 Q. And I believe -- so other than what was 10 already testified to you have not done any other 11 independent search for a site as the professional 12 planner on the project; correct? 13 A. Correct. 14 MR. SIMON: Mr. Chairman, I have no further 15 questions of Mr. Masters at this time. 16 CHAIRMAN FLANAGAN: Great. Do any members 17 of the public who are not represented by Mr. Simon have 18 any questions for Mr. Masters? There's a lot of names 19 there. 20 MR. O'DONNELL: I do. 21 CHAIRMAN FLANAGAN: Great. Can you just 22 state your name -- actually, what do we need, Steve, 23 name and address? 24 MR. MLENAK: Yes. That's correct. And 25 I'll remind those asking questions that this is the</p>
<p style="text-align: right;">Page 95</p> <p>1 time just for questions not comments. 2 MR. O'DONNELL: Got you. So we will have 3 time to do comments, though? 4 CHAIRMAN FLANAGAN: At the end, yes. There 5 will be a comment session. But this is specifically 6 for questions related to Mr. Master's testimony. 7 MR. O'DONNELL: Okay. It's Neil O'Donnell. 8 I'm at 28 Millbrook Road. I'm most affected by this 9 whole thing. It's right in, as I would say, my back 10 porch. 11 So just for Mr. Masters, I question you 12 taking pictures. I know you weren't on my property 13 because it's gated. I live there and I had no recall 14 of the conversation with Nick Platt or anyone giving 15 you access to my property. So I do question you there. 16 Also, I had a question about how many 17 towers have you installed in a historical district and 18 also less than 50 feet from a personal person's 19 property line? 20 THE WITNESS: I don't recall any less than 21 50 feet from a person's personal property line. The 22 photograph that I took from 28 Millbrook was taken from 23 the driveway outside of the gate. I'm aware that -- 24 MR. O'DONNELL: That's my property also. 25 THE WITNESS: -- the property is gated.</p>	<p style="text-align: right;">Page 96</p> <p>1 MR. O'DONNELL: That's a private road also. 2 THE WITNESS: Okay. Within proximity to a 3 historic district I was involved in one down in 4 Franklin Township that was within a thousand feet of a 5 historic property, Rockingham, which is Washington 6 Headquarters property in Franklin Township. That's the 7 only one that comes to mind at the moment. 8 MR. O'DONNELL: Okay. And we talked about 9 the whole -- you know, the 1800-square foot concrete 10 pad 40 feet from my property. Water runoff, I know 11 we're going to talk about impervious coverage, all 12 those things. We're looking at six structures now on a 13 bow tie piece of property. I think we really have to 14 look into that Mr. Fox, and really look closer to all 15 that, because I'm pretty familiar with all that, with 16 the DPW, the water runoff. 17 I think you've been, Mr. Fox, on our 18 property a long time ago and you remember the issues we 19 had with all the water runoff going on 28 Millbrook 20 Road, especially my backyard. So I do recommend we do 21 that. 22 I also -- let me see what else I have here. 23 There's a whole list. I'm just trying to get -- I know 24 it's getting late. 25 CHAIRMAN FLANAGAN: Mr. O'Donnell, these</p>

<p style="text-align: right;">Page 97</p> <p>1 are questions specifically for Mr. Masters.</p> <p>2 MR. O'DONNELL: Correct. Mr. Masters, I</p> <p>3 would like your personal opinion. Would you buy a home</p> <p>4 with a 120 foot, or a 140 foot or a hundred foot</p> <p>5 monopole or tree-like structure behind your house?</p> <p>6 Just answer yes or no.</p> <p>7 THE WITNESS: I don't know that I would or</p> <p>8 I wouldn't. I don't really have an opinion.</p> <p>9 MR. O'DONNELL: It's hard to find this</p> <p>10 information because it doesn't exist. Everywhere I</p> <p>11 looked in New Jersey on every website, every page spoke</p> <p>12 to numerous realtors locally in town, too, that they</p> <p>13 don't have any recollection of ever having a property</p> <p>14 that has a monopole or a tree-like pole, anything like</p> <p>15 that less than 50 feet from someone's property line.</p> <p>16 That's another only thing.</p> <p>17 The only thing, Mr. Chairman, I do want to</p> <p>18 invite -- and you're more than welcome too, Mr.</p> <p>19 Masters. I want to invite everyone to my back patio to</p> <p>20 take a look from my side what this will do to impact my</p> <p>21 property. So when everyone frees up we'll get some</p> <p>22 dates together. Lori, I'd appreciate if you can get</p> <p>23 it, but I do think we should have a site visit.</p> <p>24 Because it's a totally different beast when you're</p> <p>25 sitting on my back deck.</p>	<p style="text-align: right;">Page 98</p> <p>1 CHAIRMAN FLANAGAN: Okay. Well, thank you</p> <p>2 for that, Mr. O'Donnell. We'll -- you know what, we'll</p> <p>3 discuss it as a Board and maybe we will make a site</p> <p>4 visit out there. It doesn't sound like a terrible</p> <p>5 idea.</p> <p>6 MS. WADE: This is Leslie Anne Wade. I</p> <p>7 live at One Village Road. I think you're going to be</p> <p>8 able to see this from a number of homes. So is there a</p> <p>9 possibility that we're going to look from all of our</p> <p>10 properties to see?</p> <p>11 CHAIRMAN FLANAGAN: Maybe we'll do a tour.</p> <p>12 Ms. Wade, do you have any questions for Mr. Masters?</p> <p>13 MS. WADE: Well, that's my question. He</p> <p>14 went around and looked from some properties, but why</p> <p>15 would he not look from my property? It's right here.</p> <p>16 It's a 200-year-old-plus home in New Vernon right near</p> <p>17 the Historic District, and I'd like him to look from my</p> <p>18 property, too.</p> <p>19 CHAIRMAN FLANAGAN: So your question is why</p> <p>20 did he not look from your property. And what's your</p> <p>21 address again?</p> <p>22 MS. WADE: One Village Road. I'm at the</p> <p>23 corner of Blue Mill and Village Road. I just think if</p> <p>24 we're going to look at it from a couple of properties</p> <p>25 why aren't we looking at all the people who are</p>
<p style="text-align: right;">Page 99</p> <p>1 involved down here who buy a historic home on purpose,</p> <p>2 in a historic village on purpose.</p> <p>3 CHAIRMAN FLANAGAN: So I think, Mr.</p> <p>4 Masters, the question is, why did you not take a</p> <p>5 picture, I'm guessing, from One Village Road?</p> <p>6 THE WITNESS: I drove around the area of</p> <p>7 Village Road, Blue Mill Road, Millbrook Road that</p> <p>8 triangle in both directions. I could not see the crane</p> <p>9 from the intersection of Village Road and Blue Mill</p> <p>10 Road.</p> <p>11 MS. ENGEL: May I interject?</p> <p>12 CHAIRMAN FLANAGAN: Can you just state your</p> <p>13 name and address for us, please?</p> <p>14 MS. ENGEL: It's Christel Engel. We are at</p> <p>15 32 Millbrook Road. And I believe that Mr. Masters was</p> <p>16 asked, and I'm very sorry that he was not at the crane</p> <p>17 test on the 18th, on the -- at 14th of February 2020,</p> <p>18 which by the way is my birthday. So you can only</p> <p>19 imagine what the vista must have been like from our</p> <p>20 property when the crane test came up.</p> <p>21 Can I please ask to -- I believe that Mr.</p> <p>22 Simon may have the pictures of this particular crane</p> <p>23 test of the photographs?</p> <p>24 MR. SIMON: Ms. Engel we're not there quite</p> <p>25 yet. This is just for questions of Mr. Masters.</p>	<p style="text-align: right;">Page 100</p> <p>1 There's going to be time for that later.</p> <p>2 CHAIRMAN FLANAGAN: First of all, Ms.</p> <p>3 Engel, are you represented by Mr. Simon?</p> <p>4 MS. ENGEL: No.</p> <p>5 CHAIRMAN FLANAGAN: So do you have a</p> <p>6 question for Mr. Masters?</p> <p>7 MS. ENGEL: Yes, I do have a question. And</p> <p>8 it's actually related to --</p> <p>9 MR. MLENAK: Ms. Engel, I don't believe</p> <p>10 you've given your address.</p> <p>11 MS. ENGEL: I did.</p> <p>12 MR. MLENAK: You did? Okay. Then I</p> <p>13 apologize.</p> <p>14 MS. ENGEL: 32 Millbrook Road.</p> <p>15 MR. MLENAK: I'm sorry. Thank you.</p> <p>16 MS. ENGEL: I have a question with regard</p> <p>17 to the trees, and the trees that are being taken down</p> <p>18 in terms of the height of that. And with regards to</p> <p>19 the pole, if it's going to be at 120 feet and the trees</p> <p>20 are in the vicinity between 65 and 80 feet, how is it</p> <p>21 possible that during the winter months in particular</p> <p>22 how does this not have an impact from almost anywhere</p> <p>23 depending on the properties that you should have</p> <p>24 visited?</p> <p>25 THE WITNESS: Well, it's obvious you're</p>

<p style="text-align: right;">Page 101</p> <p>1 going to have visibility above the prevailing tree  2 height, and that's -- the fact is there has to in order  3 to function, in order to transmit radio signal.  4 So, yeah, there will be visibility in areas  5 where the height of the pole is at a height greater  6 than the prevailing tree height.  7 MS. ENGEL: May I ask another question to  8 you? We had a very, very large storm and all of us in  9 this town lost a significant amount of trees and it was  10 during Sandy. We must have lost 20 trees at the time.  11 I believe that the coverage all over town was greatly  12 reduced because of the trees not being as tall any  13 longer. So what do you think is going to happen when  14 another storm hits here?  15 THE WITNESS: Are you talking about the  16 radio frequency coverage?  17 MS. ENGEL: I'm talking about the impact  18 that the tower would have further by losing additional  19 trees in the neighborhood?  20 THE WITNESS: Well, again, I can't assess  21 what the impact of a future storm is going to have on  22 as far as the viewshed of the tree pole. I simply  23 can't answer that question.  24 CHAIRMAN FLANAGAN: But is the question,  25 Ms. Engel, will the tower have a more -- a bigger</p>	<p style="text-align: right;">Page 102</p> <p>1 visual impact with fewer trees? Is that basically what  2 you're asking?  3 MS. ENGEL: Absolutely.  4 THE WITNESS: Well, that definitely would,  5 again, I think would be a likely result if, you know,  6 major storms came through like the effect it had on  7 Dickson Mill Road where you have like, you know, these  8 specific areas where there's greater damage. I mean,  9 obviously the more trees that are removed the greater  10 the viewshed is going to be.  11 MS. ENGEL: Okay. I would also like to  12 invite you to our property which is right next to  13 Neil's, and we feel significantly impacted. And it  14 would be very good to have you look from this angle.  15 CHAIRMAN FLANAGAN: Okay. Thank you. We  16 will discuss it. I appreciate the invite.  17 All right. Do any other members of the  18 public have any questions for Mr. Masters? (No  19 response.)  20 Okay. Any members of the Board have any  21 questions for him? I know we have discussed, but I  22 think we're at a point, Mr. Schneider, where we're not  23 going to ask, I mean, Mr. Masters is welcome to join us  24 again, but I don't think we need to have him back  25 again. Do we?</p>
<p style="text-align: right;">Page 103</p> <p>1 MR. SCHNEIDER: Let me answer it this way,  2 Mr. Chairman. I probably have some follow-up questions  3 for him primarily based on questions from Mr. Simon,  4 but in an effort to move it along I might decide that  5 it might be appropriate to defer that redirect until  6 Mr. Simon completes and presents his professional  7 planner rather than to break it up. So I may have to  8 defer recalling him until after Mr. Steck -- I believe  9 it's Mr. Steck's testimony. That might just be a far  10 more efficient way to proceed.  11 So I will proceed at this point on the  12 assumption that we will not be bringing back Mr.  13 Masters. And that on the June 17th meeting, looking  14 ahead, the game plan is I'll leave Mr. Simon what order  15 he wants to proceed. He'll proceed with his fact  16 witnesses and then proceed with Mr. Steck or his  17 professional planner.  18 MR. SIMON: Mr. Chairman, if Mr. Masters is  19 not coming back at the next meeting for some redirect I  20 just have one question to ask him based on the  21 questioning from the other members of the public. Can  22 I do that now? Because there's no reason for Mr.  23 Masters --  24 CHAIRMAN FLANAGAN: Sure. If you can do it  25 in the next four minutes. Can you do that in the next</p>	<p style="text-align: right;">Page 104</p> <p>1 four minutes?  2 MR. SIMON: I'm going to do it in less than  3 240 seconds. And that's from a bad math student, by  4 the way. Very bad.  5 BY MR. SIMON:  6 Q. Mr. Masters, I believe it was Mr. O'Donnell  7 asked you about the properties, residential properties  8 next to or within a historic district. And you  9 mentioned in Franklin Township there was a cell tower  10 that was constructed within a thousand feet of a  11 historic property; is that correct?  12 A. Hasn't been constructed yet. It has been  13 approved to be constructed.  14 Q. And was that -- was the area where the  15 monopole was approved, was that within a historic  16 district?  17 A. It was not within a district.  18 Q. And how far was the historic property from  19 the monopole?  20 A. The historic property was approximately  21 500 feet away.  22 Q. And what's the address of the site where  23 the tower was approved in Franklin Township?  24 A. Okay. Just bear with me a minute.  25 MR. MLENAK: Mr. Masters, while you're</p>

<p style="text-align: right;">Page 105</p> <p>1 looking it up, I assume we're talking about the</p> <p>2 Franklin in Somerset County?</p> <p>3 THE WITNESS: That's correct. 100 Laurel</p> <p>4 Avenue, Franklin Township.</p> <p>5 MR. SIMON: Nothing further. Thank you,</p> <p>6 Mr. Chairman.</p> <p>7 CHAIRMAN FLANAGAN: Okay. All right. So</p> <p>8 next meeting, Mr. Simon, you're going to have some</p> <p>9 witnesses for us?</p> <p>10 MR. SIMON: Yes.</p> <p>11 CHAIRMAN FLANAGAN: I think we can talk</p> <p>12 about timing. You have a couple of, I guess they're</p> <p>13 fact witnesses. They're residents. I guess they're</p> <p>14 going to testify to -- I guess -- well, they'll testify</p> <p>15 to whatever they testify to.</p> <p>16 MR. SIMON: The intent is not, of course,</p> <p>17 for public comment at that time, but rather just to</p> <p>18 introduce into evidence a series of photographs,</p> <p>19 basically.</p> <p>20 CHAIRMAN FLANAGAN: Okay. So, and you will</p> <p>21 have enough testimony -- you'll bring enough witnesses</p> <p>22 with you, I guess, to fill whatever time slot we have,</p> <p>23 I guess, right?</p> <p>24 MR. SIMON: I absolutely will, yes.</p> <p>25 MR. SCHNEIDER: So I'm assuming that will</p>	<p style="text-align: right;">Page 106</p> <p>1 involve a professional planner?</p> <p>2 MR. SIMON: Yeah. I mean, I guess one</p> <p>3 question that I have based on some of the back and</p> <p>4 forth over the last number of minutes is whether the</p> <p>5 Board desires to conduct a site visit.</p> <p>6 I know that this Board historically has</p> <p>7 conducted site visits for many different types of</p> <p>8 applications, and it seems that just, you know, based</p> <p>9 on my knowledge, not only the application but what I,</p> <p>10 you know, intend to present at this point that it may</p> <p>11 be beneficial for everyone, the Board, Professionals,</p> <p>12 member of the public to have a site visit, but</p> <p>13 obviously would not just -- at least my opinion -- but</p> <p>14 not just include the site itself but also surrounding</p> <p>15 properties that are or will be impacted by this</p> <p>16 application.</p> <p>17 CHAIRMAN FLANAGAN: I think there's some</p> <p>18 logic to it and I would like to see what Mr. O'Donnell</p> <p>19 and Ms. Engel, see what it looks like from their</p> <p>20 properties.</p> <p>21 The beauty is we have a meeting next week.</p> <p>22 And I think what I'd like the Board to do is think</p> <p>23 about this a little bit, and why don't we discuss it</p> <p>24 again very briefly at the meeting next week, right.</p> <p>25 And the question is for the Board, do we</p>
<p style="text-align: right;">Page 107</p> <p>1 want to do a -- do we want to visit a few properties</p> <p>2 where the owners have invited us to see the view from</p> <p>3 there? I'm not sure what -- I don't know what we'll</p> <p>4 see because there's nothing there to see, but perhaps</p> <p>5 it makes sense to go. But let's think about that and</p> <p>6 let's discuss it at the top of the meeting next week,</p> <p>7 how about that?</p> <p>8 BOARD MEMBER NEWLIN: Another thing, Mike,</p> <p>9 to think about is whether we would to that before we</p> <p>10 hear from Rob's planner or after.</p> <p>11 CHAIRMAN FLANAGAN: Yeah, okay. It's</p> <p>12 timing, when do we want to see it.</p> <p>13 And Mr. Simon, were you suggesting it would</p> <p>14 make more sense to go see the properties before your</p> <p>15 planner testifies?</p> <p>16 MR. SIMON: I think it makes more sense for</p> <p>17 the site visit to occur as soon as possible, yes.</p> <p>18 CHAIRMAN FLANAGAN: So why doesn't everyone</p> <p>19 sleep on that. We can talk about it at the top of next</p> <p>20 meeting.</p> <p>21 MR. SIMON: But in fairness to Mr.</p> <p>22 Schneider, you know, I think that -- and he and I have</p> <p>23 discussed a little bit off-line about some scheduling.</p> <p>24 So I think in fairness to him that maybe -- I think he</p> <p>25 may want to chime in at least in terms of future, you</p>	<p style="text-align: right;">Page 108</p> <p>1 know, intentions timing-wise.</p> <p>2 CHAIRMAN FLANAGAN: Would you like to chime</p> <p>3 in now, Mr. Schneider?</p> <p>4 MR. SCHNEIDER: Sure. So my understanding</p> <p>5 is the intent is for Mr. Simon to present his fact</p> <p>6 witnesses relative to the photographs that he submitted</p> <p>7 to the Board today. And then my understanding, unless</p> <p>8 I'm mistaken, is that he is intending to proceed with</p> <p>9 Mr. Steck at the June 17th meeting.</p> <p>10 If I'm mistaken, kindly advise.</p> <p>11 MR. SIMON: That was the current plan, Mr.</p> <p>12 Chairman, subject to my prior statement I think at the</p> <p>13 last meeting that I have a high school graduation for</p> <p>14 my youngest son at day and it's outdoors. And we were</p> <p>15 told that there was a chance that depending on weather</p> <p>16 conditions it may be a moving target in terms of</p> <p>17 timing. So it could be shifted into, you know, the</p> <p>18 evening hours or late afternoon. I think right now</p> <p>19 it's scheduled for early afternoon, maybe 2 o'clock.</p> <p>20 But that could change. And I wanted to give the Board</p> <p>21 a heads up, because if that day there's some weather</p> <p>22 issues and it gets shifted into later afternoon or</p> <p>23 early evening I'm out of pocket.</p> <p>24 CHAIRMAN FLANAGAN: And that's for</p> <p>25 June 17th, Mr. Simon?</p>

<p style="text-align: right;">Page 109</p> <p>1 MR. SIMON: That's correct. But of course, 2 if things go according to plan I fully intend to be 3 here on June 17th. 4 CHAIRMAN FLANAGAN: Okay. So we're not 5 going -- I'm not going to cause you to miss your son's 6 graduation. So, you know, if something comes up and 7 you can't make it that day we will not proceed without 8 you. How about that? 9 MR. SIMON: My wife thanks you. 10 MR. SCHNEIDER: Mr. Chairman, if I can be 11 heard on that. I indicated last time certainly as a 12 professional courtesy that I would never take the 13 position that Mr. Simon shouldn't attend his son's 14 graduation in the event of inclement weather. And I 15 communicated that to Steve and I communicated that to 16 Rob. 17 What I think is only fair is if as a result 18 of those unforeseen circumstances Mr. Simon's not 19 prepared to proceed then I don't want to lose a whole 20 other month until July. I don't think that's fair to 21 the Applicant since I'm affording Rob, for good reason 22 -- Mr. Simon attending his son's graduation. And I 23 don't think my position unreasonable. And I went so 24 far as to -- and I'm hoping this is not necessary. We 25 all hope that there's good weather, or if there's</p>	<p style="text-align: right;">Page 110</p> <p>1 inclement weather it can be scheduled at a time when 2 Mr. Simon can attend. 3 I took the liberty of talking to Steve and 4 Rob based on availability, and I would suggest that if 5 in fact, and only if in fact we can't meet on the 17th 6 the available date of Mr. -- I mean, I had a number of 7 available dates, but apparently the common available 8 backup, backup date is June 29th. 9 CHAIRMAN FLANAGAN: Well, I'll tell you 10 what. Rather than, why don't we make contingency 11 arrangements if and when we need a contingency plan. 12 At this point, why don't we all just pray for good 13 weather on June 17th, if not we'll address it at that 14 point. 15 I will say as we're heading into the summer 16 here, it's becoming more and more difficult for 17 meetings outside of the ordinary course. So I'll just 18 put that out there. With summer schedules and travel 19 schedules it is not going to be as easy as it has been 20 for the last few months. But let's address it as the 21 time comes. I hear your concerns, Mr. Schneider, and 22 you're absolutely -- it's not unreasonable what you're 23 asking for. What I'll say is, let's address it when 24 and if the time comes that we need to address it. 25 MR. SCHNEIDER: That's right. My only</p>
<p style="text-align: right;">Page 111</p> <p>1 point was I wanted to throw out a date so that the 2 Board can assess it from a scheduling only as a backup 3 so we're not all shuffling our schedules on June 17th 4 to figure it out. I went so far as to ask Steve and 5 Rob what their common available dates were. 6 CHAIRMAN FLANAGAN: I'll tell you what. 7 Steve can send me an e-mail or send the Board an email 8 tomorrow. Does that sound fair if you guys have chosen 9 a date or if you still need to discuss it more? 10 MR. SCHNEIDER: That's fine. 11 CHAIRMAN FLANAGAN: All right. Is there 12 anything else, Mr. Schneider, this evening? 13 MR. SCHNEIDER: We'll carry the matter 14 without further notice subject to the mutual extension. 15 For members of the public, June 17th, at 7:30 p.m. No 16 additional notice will be required. 17 MR. MLENAK: Rich, I think for belts and 18 suspenders, should we carry it also for administrative 19 discussion purposes only to the meeting next week as to 20 whether or not a site visit is needed? 21 MR. SCHNEIDER: For that limited purpose I 22 have no issue with that. 23 MR. SIMON: And the understanding, of 24 course, is that, or my understanding is that with the 25 matter being carried for purposes of discussion for</p>	<p style="text-align: right;">Page 112</p> <p>1 site visit, if in fact a site visit is determined to be 2 the desire of the Board that that would be duly noticed 3 to the public at the appropriate time? 4 CHAIRMAN FLANAGAN: Oh, I think we'd 5 absolutely have to. Steve, you speak to it, but I 6 would imagine like any other site visit we have to give 7 ten-days notice; right? 8 MR. MLENAK: Yes. Lori, you were going to 9 say something but you can't? She's raising her hand. 10 CHAIRMAN FLANAGAN: Ten-days notice, right, 11 Lori? Okay. I think that's what she -- no -- 12 BOARD MEMBER NEWLIN: It's 48 hours, I 13 believe. 14 CHAIRMAN FLANAGAN: 48 hours. It's not ten 15 days. Gotcha. Alf knows this stuff. Okay. Anything 16 else Mr. Simon, Mr. Schneider? 17 MR. SCHNEIDER: Not at this time, Mr. 18 Chairman. Thank you. 19 CHAIRMAN FLANAGAN: Any other business 20 tonight before the Board? Nope. Okay. We're 21 adjourned. Thank you, everyone. 22 MR. SIMON: Thank you. Good night. 23 (Whereupon, the hearing on this application 24 concludes at 11:04 p.m.) 25</p>

CERTIFICATE

I, IRIS LA ROSA, a Notary Public and Certified  
Shorthand Reporter of the State of New Jersey, do  
hereby certify that the foregoing is a true and  
accurate transcript of the testimony as taken  
stenographically by and before me at the time, place,  
and on the date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a  
relative nor employee nor attorney nor counsel of any  
of the parties to this action, and that I am neither a  
relative nor employee of such attorney or counsel, and  
that I am not financially interested in the action.

IRIS LA ROSA, CSR, RPR  
Certificate No. 30XI 00162800  
Dated:



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