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ZONING BOARD OF APPEALS TOWN OF BERLIN

In the Matter of the Application of:

MARINER TOWER

Re: Cherry Plain site

Town of Berlin, Rensselaer County, New York

STENOGRAPHIC MINUTES OF PUBLIC HEARING

conducted on the 18th day of February, 2010, at the
Berlin Town Hall, Berlin, New York commencing at
7:52 p.m.

1 ZONING BOARD OF APPEALS:

2 VIC LEWIN, Acting Chairman

3 MARYELLEN GILROY, Board Member

4 J. NICHOLAS ADAMS, Board Member

5 DAVID THERAULT, Board Member

6 SUE WORMERSLY, Board Member

7

8 PETER HENNER, ESQ., Town Attorney

9

10

11

12 APPLICANT REPRESENTATION:

13 CHRISTOPHER F. CIOFI,

14 Chief Development Officer

15 Mariner Tower

16 374 South Street

17 Suite 202

18 Pittsfield, Massachusetts 01201

19

20

21 REPORTED BY: ELLEN J. FRANKOVITCH

22 Court Reporter and Notary Public

23

24

	LIST OF SPEAKERS	
		PAGE
1		
2		
3	VIC LEWIN, Acting Chair (Opening Remarks)	4
4	CHRISTOPHER CIOFI, Mariner	5
5	ERIC MAY	16,63
6	LAURA FRENCH	23
7	FRANK GUIMARRA	24,69
8	RICHARD VON SCHILGEN	25
9	ROBERT JAEGER	34
10	LINDA BUGEJA	35
11	KENT GOODERMOTE	36
12	MIKE CUSACK, Verizon	37,58
13	ROBERT JACOB, Verizon	43
14	JASON SAUNDERS	48
15	HAL CUMMINGS	54,57
16	MARYELLEN GILROY, Board Member	66
17	JAN ANHRAM	70
18	PAM DeSHANE	71
19	DOUG GOODERMOTE	75
20	CONNIE GOODERMOTE	75
21	VIC LEWIN, Acting Chair (Closing)	76
22		
23		
24		

1 P R O C E E D I N G S

2 MR. LEWIN: Don France, who is our
3 chairperson, is under the weather so I'm
4 taking over tonight. He's feeling better
5 today, he said, so hopefully he'll come along.

6 A few ground rules before we begin. When
7 you do wish to -- I guess do it this way:
8 When we get started, Chris is going to be --
9 the Mariner engineer -- give a little
10 background on what he's doing, what is
11 proposed, and then we'll open it up to anybody
12 that wants to talk. So on that part, we'll
13 have a three-minute limit. Susan is keeping
14 time for three minutes. I would like you to
15 state your name, please, and where you live.
16 When we do go around -- and there really
17 aren't that many people here compared to our
18 last meeting in the fire hall last year --
19 we'll go around again if you run over the
20 three minutes.

21 The purpose of this meeting is to get
22 your input, your concerns about this proposed
23 cell tower. It's not a debate; it's just your
24 concerns, what you're concerned about as far

1 as this particular tower goes. We'll do our
2 best to answer questions. If we can't answer
3 them tonight, we should be able to answer them
4 at our April meeting or -- at the March
5 meeting or April meeting. So we'll take it
6 from there.

7 And members of the board, Zoning Board,
8 Susan on the end, Wormersly, and Nick Adams,
9 Dave Therault -- most of you probably know
10 us -- Maryellen, Peter Henner's our lawyer,
11 and this young lady is Ellen. And Chris.

12 MR. CIOFI: Good evening. My name is
13 Chris Ciofi. I'm the chief development
14 officer for Mariner Tower. And we are
15 proposing a new Tower on the Goodermote
16 property on the west side of Route 22 across
17 from Fuller Road. Either -- I guess after we
18 do -- I'll do a brief presentation. What I
19 have is some more plans and some maps that you
20 can come up and take a look at, feel free to
21 please come up and take a look, get a better
22 idea of where it is. We floated two balloons
23 this past summer to give people an opportunity
24 to see where the project is going to be

1 located, and we've done some simulations to
2 show what a tower would look like from that
3 location. I believe most of the stuff is on
4 the library's website; if you're curious, you
5 can see it there. I understand from Maryellen
6 that, I don't think you have a webmaster
7 anymore, so I don't know if...

8 MS. GILROY: Everything is up on the web.

9 MR. CIOFI: It is up? Okay, beautiful.
10 So everything is up on the web, so if you want
11 to look at that if you don't have a chance to
12 look at it tonight.

13 Again, we're proposing to put the site
14 right across from Fuller Road up on the side
15 of the hill. What this map here is the T02
16 map. Outlining the center of the map is the
17 parcel, the Goodermote property on the west
18 side. In the circle around it shows a
19 1500-foot circle, and that's a town
20 requirement that shows -- we had to notify all
21 the abutters within that 1500 feet. So if
22 some of you live within that area, then you
23 probably received a notice as part of this.

24 This map C01 gives you a little better

1 idea what we're proposing. This is Route 22
2 that goes up and down and north and south on
3 the page. There's an existing farm road and a
4 field on the west side of 22. What we're
5 proposing to do is improve this farm road with
6 gravel, come down to the end. And it stops
7 about here (indicating), and then it continues
8 a little bit, but it's pretty rugged and rough
9 in through this area (indicating). There's a
10 little trailer park just to the north here, to
11 give yourself some orientation.

12 So we're going to improve this road a
13 little bit more, come up. And then on the top
14 of the property, we're going to clear an area
15 of about 80 by 80 and put a fenced compound in
16 there approximately 70 feet by 70 feet. All
17 of our activities will be inside that
18 compound. The tower itself -- I'll show you
19 what that looks like. It's a monopole style
20 tower. That will be inside the compound, and
21 the equipment shelters for any of our tenants
22 will be inside that compound. The only thing
23 that won't be, is we're proposing to come
24 overhead with telephone poles for power and

1 electric. But then once it gets to the site,
2 in accordance with the town law, it's to go
3 underground into a meter center at the site.

4 So most of our stuff will be contained
5 within a fence; barbed wire on a chain-link
6 fence for security purposes. It's authorized
7 for training personnel only. Now, we were
8 just talking earlier before the meeting,
9 discussing the idea about putting a gate down
10 at the bottom. Unfortunately, when kids with
11 four-wheelers see a new gravel road, they get
12 curious to see what's up there. And we want
13 to keep this facility safe and secure. We
14 don't want to attract attention. Once the
15 site is built, typically once or twice a month
16 a technician in an SUV or a small pickup truck
17 may go up to check on the site. Other than
18 that, there's no activity. There's no people
19 there every day. We don't want people up
20 there. We don't want kids wandering up there.
21 We don't want hunters that get bored and
22 wonder if there's something there to occupy
23 their time up there. So it may be a good idea
24 to just put a gate right down here and say,

1 "Private property, no trespassing, keep out."
2 Obviously, the Goodermote family is very
3 accommodating. If somebody needed to go up
4 there for a reason and talk to Doug, I'm sure
5 Doug would work with them. But there's no
6 reason for anyone to go up there. It's all
7 private property. And it's a steep area and
8 trained technicians are the only ones that are
9 going up there, and our contractors.

10 This C02 gives you a little bit more
11 detail of the access drive. It just breaks it
12 down, because it is rather long. But this is
13 the existing piece of it. It goes from the
14 bottom of the sheet to the top part of the
15 sheet. Again, it exists to approximately here
16 (indicating), although it does need to be
17 improved with some gravel, take some of the
18 organics off of it. And then that shows some
19 grading, topography that goes up there. It's
20 rather steep in this portion of it, but we've
21 got our engineers to design it with proper
22 drainage control and siltation barriers so we
23 can keep the road in place and not worry about
24 erosion.

1 The C03 sheet is just a cross-section
2 profile that engineers like to put on here.
3 It shows the actual percentage of the grades
4 and different stationing. So that's more of a
5 construction plan.

6 C04 shows -- this is a monopole south
7 tower. And on the left-hand side of the page
8 it shows two different views of the proposed
9 compound area. On the right-hand side of the
10 page, the tower that we're proposing -- the
11 town law provides up to 150-foot tall tower,
12 so we are proposing a 150-foot tall tower. We
13 are proposing to put Verizon antennas with the
14 top of their antennas mounted even with the
15 top of the tower. So their industry term is
16 we use the center line. So we take the center
17 of the tower. So you'll see on the plan it
18 says, "Antenna center line at 146 feet AGL";--
19 above ground level. So their antennas will be
20 at 146 feet, the top of their antennas will be
21 at 150 feet.

22 With us tonight in the audience we have
23 representatives of Verizon here, again, just
24 to express their interest and state that they

1 are interested in using the facility, if
2 hopefully we receive our approval to build
3 this.

4 The bottom right-hand we show this area,
5 you can see, if you look closely, there's a
6 small equipment shelter in here, very similar
7 to the site that was just built up north of
8 Berlin. Top left again shows some grades.
9 Because the area is steep, what we're
10 proposing to do is terrace the site. We're
11 going to have our squared cleared area. The
12 top part will be slightly higher, and then
13 we'll grade it down and the bottom part will
14 be at a lower elevation. We're proposing to
15 put a tower and Verizon's equipment shelter in
16 the top part of the compound area. And then a
17 future tenant could also go in the top part.
18 And then beyond that future users would go in
19 the lower elevation. Again, the bottom
20 left-hand side shows the gravel access drive,
21 it shows the turning area to turn around, and
22 it shows some overhead utility lines coming
23 into the site. On the left, it shows where a
24 transformer and a cabinet for fiberoptics

1 cables would be located. And then our meter
2 center would be inside the compound.

3 We've shown here approximately what the
4 tree height exists now and within
5 approximately ten years. The last meeting we
6 had at town hall we were discussing whether
7 those trees up there will mature, are they
8 going to grow any more. And I think the
9 consensus was they're probably pretty mature,
10 they're probably not going to see a lot more
11 growth. So this just gives you a kind of an
12 indication of how much of the tower is going
13 to be physically above the trees, but
14 everybody's view is going to be different.
15 And that's why we did the balloon floats and
16 prepared some reports so everyone has a little
17 bit of a different view from it.

18 We do have some other carriers
19 interested. We do not have another lease
20 signed yet, but we have received some more
21 interest in the site, which is a great thing
22 for the 22 corridor. I was here in Cherry
23 Plain back in 2000 and 2001, right before
24 things crashed. So it's been a long time that

1 you've been waiting for service, and hopefully
2 we can help you get some of that.

3 The balance of the pages are construction
4 details, fence, spillways, vegetative
5 waterways, sediment control barriers; so
6 again, more construction details for the
7 town's review. You're welcome to take a look
8 at it.

9 One thing I would like to show you is --
10 I don't know if anyone here was at the
11 previous discussions about the site up in
12 Berlin. You may be familiar with these top
13 maps; they're called propagation studies. The
14 one on the left shows the yellow, and that's
15 approximately what these were -- I'm using
16 these with permission from Verizon; Verizon's
17 engineers prepared these and they are part of
18 the record so we didn't prepare these. But it
19 approximates their coverage from the site in
20 Berlin. So the yellow shows what that site
21 will cover.

22 What you're seeing down here in the blue
23 is site coverage coming in from Stephentown.
24 There's a state police tower, and Mariner also

1 owns a tower down in the south on Old Losty
2 Road. The right-hand side is what the
3 proposed site will cover. And the green area
4 is what is going to be added. And you'll see
5 this black line that goes north to south is
6 Route 22. And so on the left-hand side of the
7 page, they're -- both maps are at the same
8 scale. To the right-hand side, you'll see the
9 increase. So it's pretty substantial, the
10 additional coverage that we're going to get by
11 putting this tower up.

12 On the bottom of the sheet we have a
13 topographic map showing where the site's
14 located. Please feel free to come up and take
15 a look at that. We did the same thing with an
16 aerial photograph, we just kind of highlighted
17 where the site's going to be located.

18 That's generally our request for the
19 special permit. We are also asking the board
20 for a variance as a separate part of the
21 request. Because it's a cell tower or a
22 communications facility, the requirements are
23 a little bit different than if it were a house
24 or a different type of business. So the

1 requirements for the district are a 50-foot
2 setback to the rear yard. But what we're
3 asking for -- let me find the right sheet --
4 that's if it were a typical structure. But
5 for a cell tower, it's 150 feet. So we're
6 asking for a waiver -- I just lost that sheet.
7 We're asking for a variance also as part of
8 the application. Right now we're showing
9 50 feet and we maintain that 50-foot required
10 setback from the rear property line. But
11 because it's a cell tower, it's supposed to be
12 150 feet. And we've talked to the landowner
13 that owns that property; he's been given
14 notice. He's not objected to us putting the
15 structure within that distance.

16 So again, as part of this request, it's
17 kind of two-pronged, we're asking for a
18 special permit, but we're also asking for a
19 variance to vary from that required setback.

20 That's a pretty general overview. I've
21 been doing this a while; I can talk all night
22 if you let me, but I'd be happy to answer any
23 questions you have.

24 MR. LEWIN: I apologize to Mike and Rick

1 from Verizon. They're the ones that were --
2 got the cell tower in Berlin going.

3 If we're set now, we'll open it up to the
4 public, and maybe start with the first row and
5 work back so there's some semblance...

6 MR. CUMMINGS: I'll just listen to
7 everybody else.

8 MR. LEWIN: Anybody want to speak?

9 MR. MAY: Eric May, 118 Cherry Plains
10 Square, Cherry Plain.

11 Well, initially I -- when I talked to Vic
12 Lewin about this cell phone tower proposal
13 last year, he asked me if I had an opposition
14 to it or what my opinion was on it. And at
15 first I didn't have any real issues with it.
16 Doug and Melinda are friends, are neighbors.
17 They're good people and I know that this is
18 going on their property and I'd like to see
19 them benefit from it. But after researching
20 it, I've come to find out that I think there's
21 a lot of problems with this. I think that
22 there's safety concerns as far as radio
23 frequency waves, stuff you don't know about
24 that may affect your health in the future.

1 There's increased risk of leukemia. They've
2 been studies in Australia where there's been
3 double the effects of childhood leukemia and
4 children have, you know, suffered from that.
5 And we've already had issues with that in this
6 town with a child who had leukemia. There's a
7 lot of unknowns here, and you ought to really
8 start thinking about that. I mean, I'm a
9 Johnny Come Lately to these meetings and I'm
10 sorry for that. I'm sorry I was so lax in not
11 coming to them sooner. But I think you really
12 have to pursue this cautiously. I don't think
13 it should be something that you just -- you
14 know, and I don't think that's been the case;
15 they're taking their time with this. And
16 that's a good thing. But I think it's
17 something you really should proceed with
18 slowly and realize that it may be something
19 that's lying in wait, something that they
20 haven't been able to do conclusive studies on.
21 You know, cell phones haven't been around that
22 long. And what would a doctor benefit by
23 coming out with saying there may be risks
24 involved? And several have. Several very

1 prominent doctors have said that. And they
2 have nothing to benefit.

3 But a company would give you, they
4 accentuate the positive and they would
5 minimize the negative effects of this tower.
6 They're going to be biased, is what I'm
7 saying. And I would keep that in mind as you
8 pursue this.

9 And also, you know, nobody's exactly
10 going to be looking for a property within the
11 shadow of a cell phone tower. It's not going
12 to be something that's going to increase your
13 property value. So keep that in mind.

14 Another thing -- I'll be quite honest
15 with you -- I don't own a cell phone. I think
16 that people have a, I don't know, an
17 infatuation with them that I don't share. So
18 I'm just asking that you look at this and take
19 your time with this and don't just buy into
20 the stuff that's going on. Thank you.

21 MR. CIOFI: If I could respond to that?
22 Absolutely agree. This isn't something that
23 should be taken lightly. As a matter of fact,
24 the federal government takes this very, very

1 seriously. And there are very strict
2 standards that we need to comply with to make
3 sure that the facilities comply with the most
4 recent standards, whether the American
5 National Standards Institute, the Institute of
6 Electronic and Electrical Engineers, there are
7 many, many scientists, independent agencies.
8 These are not industry affiliated agencies at
9 all that govern these facilities.

10 And to take it a step further, Congress
11 has weighed in and said they've taken the
12 regulation of health effects away from the
13 local boards and said this is such a serious
14 issue, this needs to be reviewed on a federal
15 level. So the board can't even decide on
16 whether this facility positively or negatively
17 affects health effects. That's a federal
18 issue.

19 The town has also, at our expense, hired
20 an independent engineer to review this
21 proposal and to review whether it would be in
22 compliance with the federal standards. And
23 the independent engineer has found that it
24 would be in compliance with the federal

1 standards.

2 So you're absolutely right; this
3 shouldn't be taken lightly. But it has been
4 reviewed and reviewed and is in full
5 compliance with all the requirements and in
6 compliance with federal law, and this board is
7 prohibited from ruling on the effect of
8 whether this would be positive or negatively
9 cause health effects. So I appreciate your
10 concern and that has been addressed.

11 A VOICE: May I speak to that? I'll be
12 short.

13 MR. CIOFI: Sure.

14 A VOICE: GE, back in the 1960s and '70s
15 and '80s was in compliance with the federal
16 standards, too, when they emptied PCBs in the
17 Housatonic River and the Hudson River, and
18 they were perfectly within standards. But now
19 they found out that the PCBs hurt people. And
20 this is years later. And I do not even debate
21 with you that that's the case right now. Yes,
22 we're living on federal guidelines, and you
23 would be. But it's the long-term effects that
24 you know nothing about that come later on.

1 And I'm concerned for the people's safety in
2 this town.

3 MR. CIOFI: And that's fantastic. This
4 is old technology. This is ultra
5 high-frequency technology. This was Channel
6 68. This is not new. This has been around
7 for decades. This is a new use of old
8 technology at a low power. We're in such
9 tight compliance, we are a hundredth of the
10 standard. We can turn these facilities up
11 over a hundred times and still be in
12 compliance with the standard. They're
13 designed to be a low-power facility
14 intentionally, so that they make a connection
15 two to four miles down the road. If this was
16 a higher power facility, it could blow past
17 the one to the north, it can go past the one
18 to the south. And we have an engineer here
19 tonight that has designed these facilities for
20 many years that could speak more to that. So
21 these are intentionally designed to be very
22 low power. These are in the order of a
23 hundred to maybe 300 watts per site. A radio
24 station's 50,000 watts. Television stations,

1 digital TV, a million watts. These are
2 hundreds of watts. These lights are putting
3 out more wattage than these facilities put
4 out.

5 So the government regulates these, and
6 the way the rules work, if over the years if
7 it's found that the standards aren't stringent
8 enough and they change the standard, we have
9 to then be in the compliance with the new
10 standard. So it's not like there's a
11 grandfather.

12 So it's a very serious concern, so
13 serious that there are many, many scientists
14 and independent people that developed these
15 standards. And they're not industry people.
16 So they tell us what we have to do and how we
17 have to comply.

18 A VOICE: So whatever the problem is,
19 scientists are saying that there's dangers
20 involved. I can't argue scientific facts with
21 you; you're just speaking --

22 MR. LEWIN: We'll move on to the next
23 speaker. We'll come back; okay?

24 Anyone else went to say anything? Lady

1 in the back.

2 MS. FRENCH: Laura French, 398 Cherry
3 Plain Hill.

4 Hi, I'm Laura French and I live on Cherry
5 Plain Hill. And I have to totally agree with
6 Mr. May. I have the same concerns. I also
7 have concerns that, as he mentioned, it's
8 below or goes within federal guidelines. I
9 work in the medical field. I've seen federal
10 guidelines for medication and stuff has been
11 dispensed, they find out down the road that
12 that medication is not healthy and hurts
13 people, that medication is taken off the
14 market. But what's that do for all the people
15 that are injured and have terminal illnesses?
16 I am totally against the cell tower for health
17 issues. I know you can't take into
18 consideration health issues. I think that is
19 an important aspect of the town and people of
20 the town to really think about and look into.
21 The "New York Times" recently just had a
22 survey out about cell phones and cell towers
23 and the health effects of that, so there are
24 several newer reports coming out as there are

1 more and more cell towers and cell phones.

2 And I've gotten a petition from people of
3 the Town of Cherry Plain only, that are also
4 opposed that I wanted to submit.

5 A VOICE: Can I sign it? I want to sign
6 it.

7 MS. FRENCH: And that's it. That's all I
8 have to say. Just I have major health concern
9 issues about the cell tower.

10 MR. LEWIN: Thank you.

11 Anybody else want to speak?

12 MR. GIUMARRA: Frank Giumarra, 19 Miles
13 Mountain Road, Berlin, NY.

14 I'd like to say that the right now
15 benefits of having cell communication for a
16 person having an accident on Route 22, or a
17 farmer being stuck in his field and unable to
18 get the help, or wants to call his wife to
19 bring him lunch, all the benefits that are
20 right now compared to what the government --
21 might be a possible health hazard that's not
22 documented, when you compare cell
23 communications to what -- might as well get
24 rid of television and radio, because it's a

1 lot more dangerous than the radiation put out
2 by a cell phone.

3 We need communications in this valley.
4 It's been proven many times, many accidents,
5 such as up on Plank Road where a biker was
6 severely injured and they had to run for help
7 to a nearby house. It's a no-brainer for a
8 hunter in the woods, a logger, any kind of
9 construction person that's in a remote area,
10 loggers working by themselves. I think that
11 far outweighs any possible damage by a signal
12 that has no comparison to a TV signal. Stop
13 watching TV. Buy a cell phone. That's all I
14 have to say.

15 (Applause)

16 MR. VON SCHILGEN: Richard Von Schilgen,
17 Berlin.

18 In line with Frank's comments, is there
19 anybody here in the audience that does not
20 drive a motor vehicle?

21 (No affirmative response.)

22 There is a big global issue with
23 greenhouse gases from emissions from motor
24 vehicles. Are we all going to ride horses?

1 The risks compared to the benefits, you
2 know, I agree with Frank. I do have a cell
3 phone. I do believe it's a safety issue. I
4 do believe we need communication through the
5 valley. What the federal government does or
6 comes up with in the future, you know, we're
7 all going to have to deal with. The same when
8 they first started driving a car, they didn't
9 know anything about greenhouse problems, with
10 global warning.

11 My other concern directed to Verizon is,
12 I'm an AT&T user. I have friends that are
13 Nextel users. And it was my understanding
14 that those companies would be up and running
15 on your towers. They're not. Petersburg's
16 been in place for a year. Stephentown, I'm
17 not sure, I'm guessing two years.

18 Bob, do you know? A year and a half?
19 And they're still not up and running. As a
20 businessman I'm concerned that, you know, why
21 we're dragging our feet and not getting these
22 people on board to service all cell phones,
23 and not just your company's cell.

24 MR. CIOFI: If I can speak to that last

1 point. Mariner Tower is what we refer to as
2 an independent host. Mariner isn't affiliated
3 with any one customer, any one tenant, or any
4 one phone company.

5 In this particular instance, Verizon has
6 expressed an interest. We have also, as of
7 today, received interest from another company
8 that I'm not at liberty to disclose. Mariner
9 also owns the tower down in Stephentown on
10 Neil Gardner's property off of Losty Road.
11 Verizon is currently located in that tower and
12 we have final recent negotiations with AT&T to
13 locate in that tower.

14 Mariner owns the tower on Jiminy Peak.
15 Verizon is on that tower. We are negotiating
16 a lease currently with AT&T.

17 We own the tower in Canaan on the Butch
18 Farm Center. Verizon is installed or
19 installing on that tower. We also have a
20 lease and AT&T is going through local zoning
21 on that tower.

22 What I'm trying to say is, it's not quite
23 the McDonald's and Burger King; if one goes on
24 one corner, the other pretty soon goes on the

1 other corner. But the companies do a lot of
2 work in reviewing their own coverage, their
3 own signal every month. And they do drive
4 tests and they get all kinds of data on where
5 they have lost calls or ineffective attempts.
6 And they grade themselves internally and then
7 they kind of look at their competition and
8 say, okay, how are we doing compared to our
9 competition.

10 So each carrier has a different
11 footprint, they have a coverage area, and they
12 have different network plans. One year one
13 company may say, Columbia County, Rensselaer
14 County is more important to us. One year they
15 may say, you know, we're going to be over here
16 in Colonie, or somewhere else. So everyone
17 has different goals and each company's
18 different.

19 So Verizon -- and rightfully so and
20 selfishly so -- should say, we need to worry
21 about Verizon. And AT&T needs to worry about
22 AT&T. They're competitors. Just watch
23 television and see the ads. It's actually
24 kind of funny.

1 So Mariner and companies like Mariner
2 were created or evolved -- and I've worked for
3 both. I was an employee of Verizon before it
4 was Verizon; I was an employee of AT&T before
5 it was AT&T. I've worked for some of the
6 large tower companies. So the independent
7 companies like Mariner have been created to
8 encourage co-location, and to do just what the
9 town wants and what you want. Because you may
10 want AT&T, where somebody next to you might
11 want Verizon, and somebody else may want
12 T Mobil. Well, we'll set the tower up so we
13 can accommodate all of them. And that's what
14 the town law encourages. The town law says,
15 we don't want this just for one up here, we
16 don't want just Verizon.

17 And I'm not saying that they do, but
18 Verizon may say, hey, that's great. If we
19 have that, we've got this whole area and we'll
20 sell our phones to all these customers and
21 we'll capture everything. Well, if you let
22 another company on here, AT&T, well now
23 there's some competition. And there is a
24 third one or a fourth one. So now there's

1 some competition.

2 So I think it's a good sign that this
3 tower isn't even approved and built yet, and
4 we already have discussions, serious
5 discussions with two of the companies. I
6 think that's a really good sign that they
7 realize that there's a big white spot on Route
8 22. There's hardly any reliable coverage.
9 Maybe if you know there's a spot by somebody's
10 house or lamp post that if you stand there at
11 a certain time you can kind of get a signal.
12 That's not what we refer to as reliable
13 coverage.

14 And it's interesting to point out, I
15 don't know how many 22-year-olds or
16 17-year-olds that have their own apartment or
17 are in college, how many have landline phones?
18 How many college students have phones in their
19 dorm rooms? That business is dead. And what
20 these phones can do now with the e-mail and
21 the video -- you're watching the commercials
22 for the Olympics, you can watch television on
23 your phone. There's nothing to watch on TV to
24 begin with; now you can watch it on your

1 phone.

2 So the technology's been evolving so fast
3 and more calls are being made in people's
4 homes than in vehicles, this year it's
5 surpassed. In-home use has gone up so
6 dramatically. I'm over the mountain in
7 Pittsfield. If you call from Berlin or Cherry
8 Plain to Pittsfield, is that a local call?
9 It's a toll call. If you use your cell phone,
10 it's minutes. Not a toll call; just minutes.
11 So people are realizing that. They're saying
12 why do I need this home phone? I'm working so
13 many hours a day, I'm working 10, 12 hours a
14 day. When I get home, the last thing I want
15 to do is be on the phone. If you have that
16 one phone with you, it's your e-mail, it's
17 your computer, it's your telephone.

18 That that's -- we're there and we're
19 trying to bring you coverage here within the
20 proper standards under the law. And we think
21 the time is right for it. And this is not
22 just for one carrier. This is not just for
23 AT&T. Mariner is an independent host to
24 multiple carriers.

1 MR. LEWIN: If I could ask a question,
2 maybe help us all out?

3 How long did it take the process to go
4 for, let's say, for AT&T to get on the Berlin
5 tower? I mean, they have to apply, et cetera,
6 et cetera. Is that a fair question, for a
7 time frame?

8 MR. CIOFI: It's really -- it's up to
9 you, for the board. They'll have to come back
10 to you for hopefully a quick review once the
11 tower -- if we get your approval and the tower
12 is built and the facilities are in place, AT&T
13 or Sprint or T Mobile, they approach you and
14 say, we'd like to go on that tower, it's a
15 cool location. Your attorney may be able to
16 answer that better than I, whether it's a
17 special permit, if it's by right, a building
18 permit. We would absolutely encourage you.
19 And we would do anything to assist --

20 MR. LEWIN: That's fine. But as far as
21 the time frame goes, that's my question. And
22 it's maybe not a fair question to ask, you
23 know.

24 MR. CIOFI: We are in negotiations with

1 another customer besides Verizon that I'm not
2 at liberty --

3 MR. LEWIN: That's fine.

4 MR. CIOFI: We will turn our lease around
5 in 30 days, if they're interested in going on
6 a site, and give them permission to come
7 before you. We would expedite that; we would
8 love to have that happen. Then it's a
9 question of how quickly and what they would
10 have to do, whether it's a short form SEQRA
11 review or --

12 MR. LEWIN: Whether and everything else,
13 okay.

14 MR. CIOFI: But yeah, it's a fairly quick
15 turnaround for them to do their installation
16 and to do their agreements, because we have
17 done so many agreements with the different
18 carriers that we have pretty much boilerplate
19 agreements that have already been negotiated
20 through their corporate offices and we're just
21 changing the lease exhibit. So that's a very
22 quick turnaround, giving them the go ahead to
23 come before you.

24 MR. LEWIN: Anybody else, comments?

1 MR. JAEGER: Robert Jaeger, 11 Godell
2 Road, Berlin.

3 I'm from Berlin, north end. Most of you
4 probably know me. I'm going to speak to it
5 from two different directions, one as bus
6 driver for the school district. We finally
7 got, quote unquote, radios in our buses, which
8 are still infective in some areas. But now,
9 other than this area right down here, from the
10 town north when I do my route, I've got my
11 cell phone with me in case I need it. There's
12 information that we need to put out sometimes
13 that I can't put out on the radio in regards
14 to a student, if we have an incident; I can do
15 it on a cell phone. If I need help, I can get
16 it on a cell phone; I don't have to broadcast
17 it over the radio.

18 Our last meeting we had, when we did the
19 Berlin meeting -- I'm a little disappointed
20 because I was hoping more people to come down
21 and support people in Cherry Plain. Two weeks
22 before that session that we had, a 70-year-old
23 man ran through the ditch, he had banged his
24 head. He had his cell phone. Petersburg had

1 their cell tower in place. He was able to
2 call his wife and say he was off the road and
3 in trouble.

4 The safety factor alone for the
5 townspeople, and our children, and for the
6 people traveling Route 22 far surpasses
7 anything that's on the books right now. And
8 some of the people that have talked in the
9 past ironically run out on the porch and use
10 their cell phone to go get people to come to
11 the meeting to oppose it.

12 So come on, let's not be hypocritical
13 about this. We need the thing. It's time to
14 put it in place.

15 (Applause)

16 MR. LEWIN: Anybody else, comments
17 concerns?

18 MS. BUGEJA: Linda Bugeja, 21 Mattison.

19 I don't need to piggy-back off of what
20 Frank said, and Richard. My point is a little
21 self-serving. I work down in the city, but I
22 also do work up here. And I cannot do any
23 work because I don't have service in my home.
24 So in that respect, that's my interest.

1 But more importantly, for the community I
2 would think you would want the service so that
3 you can possibly get some industry in here.
4 You can get people coming in and they just
5 don't have access to anything and I think that
6 hurts us more than helps us in the long run.

7 So that's my interest and I just want to
8 put it on the books that I support it.

9 (Applause)

10 MR. LEWIN: Anybody else?

11 MR. GOODERMOTE: I got a couple of
12 questions. Is there going to be a light on
13 it?

14 MR. CIOFI: No.

15 MR. GOODERMOTE: The other question's
16 kind of like Richard's. I feel that it should
17 be more than just a Verizon carrier on this.

18 MR. CIOFI: Absolutely.

19 MR. GOODERMOTE: There's more than
20 Verizon people in town. I don't understand
21 why they haven't put something else on the
22 other one. They said they were gonna. I feel
23 the town shouldn't cater just to Verizon. It
24 should be to everybody, not just the Verizon

1 companies.

2 MR. LEWIN: Let me ask a question,
3 Kent -- interrupt and ask Verizon.

4 How does it work? If AT&T wants to come
5 on the tower in Berlin, do they get ahold of
6 you and then come to us? They come to us? Or
7 how does that work?

8 MR. CUSACK: Mike Cusack, C-U-S-A-C-K,
9 the attorney for Verizon Wireless in Albany,
10 New York.

11 The way the process works is that the
12 incoming tower user contacts Verizon Wireless
13 in Rochester. There's an on-line process and
14 form they fill out, and they make an
15 application. If all the stars are lined up
16 and the commitment for the funds and the
17 timing and contract are actually there, it can
18 be done within a calendar year, including
19 zoning. But if any hick-ups are encountered,
20 such as we saw in the last 24 months where
21 funding virtually collapsed and you don't have
22 the collateral anymore, these things can
23 extend. And it's fun for the other carrier
24 from a sales perspective to say to their

1 customer, well, I'm being held up by X, I'm
2 being held up by Y. The fact of the matter
3 is, there's a process to go through and they
4 actually have to have the money to finish the
5 project, and it has to be a priority in your
6 company's program for that particular year.

7 We don't try to get in the way of each
8 other. I can tell you from my personal
9 experience, I have applications to go on AT&T
10 towers in the Town of Broadalbin and the Town
11 of Johnstown. They're coming up on the fourth
12 anniversary of being processed.

13 MR. LEWIN: You're saying four years?

14 MR. CUSACK: I have two applications that
15 are two years old in the Town of Colonie for
16 AT&T towers, one at Latham Circle where the
17 Feiden furniture store was, the Lisha Kill end
18 of town near the Schenectady border with
19 Central Avenue. And they're coming on
20 two-year anniversaries, and the permits on
21 those actually expired and I've had to renew
22 them while I negotiate permission to go
23 forward with these. So things come up in the
24 process. It might be a structural issue. It

1 might be on an issue that's out there. I
2 don't want to try to put a time frame on it, I
3 don't want to assess blame. But there's
4 definitely a process to go through. I'm not
5 involved in it personally but I do know that
6 it's there and that they're trying to get on a
7 number of our sites right now and we're trying
8 to finish some of ours.

9 MR. HENNER: I think this is a problem
10 that may be beyond the hearing, that maybe the
11 town has to address this problem. Because
12 under the law, we granted Verizon a permit to
13 construct the cell tower, which has been
14 constructed. And now -- and one of the things
15 in constructing that tower and in the approval
16 process was that we should be encouraging
17 other locations for co-locations, as we're now
18 saying to Mariner. We're saying look, with
19 this tower application, we want you to have so
20 many other locations for other users. Of
21 course, that is very much in their interest
22 because they're a host tower and they'd like
23 very much to have as many people paying them
24 to use their tower as possible.

1 But what we're hearing tonight is that
2 six months or seven months after the tower has
3 been up and we're hearing that other companies
4 are not co-locating on tower and it's kind of
5 some concern to hear that this may take a
6 couple of years, because in a couple of years
7 we may have someone who we want, that the
8 board or the town does not want. We don't
9 want to have AT&T or Sprint or anybody else
10 coming back and saying, you know, we don't
11 have coverage in the Town of Berlin and we
12 want to have another tower. Because what we
13 would tell them is -- and tell you is, wait a
14 minute, we approved the tower on the
15 assumption that you were going to make it
16 possible to co-locate. Now we don't have --
17 looking through the ordinance, we don't
18 necessarily have direct approval; we have some
19 influence but they don't need a special
20 application from us to co-locate. But somehow
21 I think the town has very strong interest in
22 making sure that other companies can co-locate
23 and what we need to know is how can we make
24 that happen quickly.

1 MR. CUSACK: Let's hope that Slatterly
2 goes smoothly. As of right now, I'm not aware
3 of an application being submitted to
4 co-locate.

5 MR. HENNER: Which is not your fault.

6 MR. CUSACK: I don't know that it's even
7 funded. But the reason I'm a little cautious
8 here is that I'm trying to politely point out
9 the sales side of the operation. And if there
10 isn't an application yet filed, then people
11 should not be saying to anyone they're being
12 held up by Verizon Wireless if the project is
13 not in fact funded; it's in fits and starts,
14 and they're going to do it, they're not going
15 to do it. We've tried to be fair in our
16 presentation to the board. We're committed.
17 We'll go through the process. It might take
18 us a long time, but I look at it this way: It
19 took me almost a year, more than a year to get
20 that signed to the point where we could submit
21 it, go through the zoning process and build
22 it, including the process we had to go through
23 after we were finished in Berlin on the
24 federal side.

1 So these things do take time and I want
2 to recognize that.

3 MR. HENNER: And I'm not saying you
4 shouldn't have an opportunity to do whatever
5 you need to do in terms of making a fair
6 arrangement with the other companies that want
7 to use your tower. But what we are saying is
8 that with the town, we're going to want to
9 look at what can we do to expedite that
10 application. Now, I have no reason to doubt
11 that -- and we haven't received any
12 application, but I'm curious as to why they
13 haven't submitted the application, what's
14 holding AT&T up. And then you tell us -- and
15 I heard that first time tonight -- that
16 sometimes the application process takes two
17 years and I'm thinking somewhere, something --
18 it shouldn't be taking two years. And I don't
19 understand why everyone isn't saying, oh, wow,
20 there's a new tower up, why aren't we all
21 vying to get on.

22 MR. CUSACK: I can't answer that. As
23 Chris said, he's getting applications now.
24 We're starting to get applications from AT&T.

1 Maybe starting to get the resources to
2 actually proceed.

3 MR. LEWIN: May I ask, then -- if you
4 can't answer, ask Rob -- would it be to the
5 town's advantage to have the supervisor send a
6 letter to AT&T saying, hey, how come you're
7 not trying to get a tower in Berlin?

8 Wouldn't hurt right?

9 (Laughter.)

10 MR. JACOB: Robert Jacob [phonetic].

11 If I remember correctly, about seven or
12 eight months ago, Petersburg, AT&T took out a
13 permit to go on your tower in Petersburg.
14 Isn't that true?

15 MR. CUSACK: I know they're trying to get
16 on that tower and a couple of other towers.

17 MR. JACOB: So they've started the
18 process, okay? So everybody is aware of why
19 we've done what we have, we have the 150-foot
20 tower design so that we only wind up with two
21 towers in town. If we did what Hoosick did,
22 they have a height restriction of 99 feet,
23 which is barely above the treetops, so only
24 one emitter can go above the trees. Now, in

1 Hoosick, if AT&T goes in, they get proper
2 coverage, you're looking at two to three
3 towers for AT&T, two to three towers for
4 Verizon -- you can have 14 to 16 towers in
5 Hoosick. We're going to have two. That's our
6 goal.

7 MR. LEWIN: Wait a minute, you'll have to
8 come down in front if you want to speak,
9 please.

10 And Kent, go ahead. You have the floor.

11 MR. GOODERMOTE: This fellow here hasn't
12 built it yet and he's got two applications
13 wanting to get on here. Verizon's been here,
14 they say it's taken four years. Something's
15 wrong with you folks.

16 MR. CIOFI: If I can speak to that?

17 MR. GOODERMOTE: Let me finish.

18 You said there's only two towers in town;
19 there's three towers in town.

20 MR. JACOB: Two towers we approved to
21 meet our regulations. They were done before
22 the regulations were put in place.

23 MR. CIOFI: That's, again, everybody --
24 what we need to point out is each one of the

1 carriers has a little bit different network
2 plan. And they beat you to death with that on
3 the television commercials, but it is true
4 that everybody has a little bit of a different
5 plan. So one of the existing towers to the
6 north of our proposed site, AT&T's already on
7 that. It's a little old tower that they used
8 to meet a federal requirement years ago. It
9 barely reaches the road.

10 MR. LEWIN: You're talking about
11 Goodermote Road up there, Chris?

12 MR. CIOFI: Goodermote Road. It's just
13 east of the county tower. So there's two
14 towers up there. AT&T's already on that
15 tower, so they're getting some signal up to
16 the north. So they may not be interested
17 immediately in Verizon's tower because they're
18 already getting some coverage up to the Berlin
19 area. They're not -- that tower -- we looked
20 at that tower, as the law requires us. Before
21 we could propose this tower, we needed to
22 demonstrate that that tower wouldn't work to
23 cover this area. And we reviewed that and
24 then the town's independent engineer reviewed

1 that and agreed that that tower over here
2 wouldn't provide coverage. But AT&T's already
3 on and they're getting some coverage onto 22
4 and up to Berlin. So that may be a part of
5 the reason why they're not interested at this
6 point in going on Verizon's tower.

7 MR. GOODERMOTE: I didn't say AT&T; I
8 said another --

9 MR. CIOFI: But they're one that people
10 are talking about and mentioning their name.

11 So the Verizon tower -- and you can see
12 from this plan here -- covers a nice spot of
13 22 to the north and goes into Petersburg. And
14 then our tower will cover the balance of 22
15 and south into Stephentown.

16 MR. GOODERMOTE: With who?

17 MR. CIOFI: With anyone. Right now, it's
18 proposed with Verizon and for the future.
19 Okay, so we have set up for the future as
20 well. So this is designed -- and the town's
21 independent engineer has confirmed this; okay?
22 So the nice thing about these engineering
23 studies is they're black and white, or green
24 and yellow. That an independent engineer can

1 plug in and be asked for all the particulars,
2 okay, what are your power levels, what type of
3 antennas, what frequencies. And they plug all
4 this up into a computer model. And he
5 prepared -- and it's in the record. He
6 prepared his own studies to kind of check and
7 balance, to see if what we are showing is
8 true. He said okay. Then one of the board
9 members offered sites of his own, and we
10 analyzed those, and the town's consultant
11 further analyzed those to see did we pick the
12 best spot. We keep coming back and saying,
13 yes, we believe we have the best spot. The
14 town's engineer confirmed and he agrees that
15 we've picked the best spot on the Goodermote
16 property.

17 That spot is good for a couple of
18 reasons: One, we have interest from Verizon
19 currently that it will provide the coverage
20 that they want, and it will provide coverage
21 for additional carriers. So that's why,
22 again, Mariner's an independent host and we
23 encourage, like the town law requires, that we
24 want multiple users on this. So whether it's

1 Sprint or T Mobil or Metro PCS or Cox
2 Communication or AT&T, we want multiple users
3 on the tower. And that's our business. Our
4 business model is to put multiple users.
5 Verizon, AT&T, Sprint, they sell air time.
6 They sell minutes. That's their business.
7 Some of them, Verizon built some towers of
8 their own; AT&T built some tower of their own.
9 That's all Mariner does. All we do is build
10 facilities.

11 MR. LEWIN: Okay, Kent?

12 MR. GOODERMOTE: Yes. I just hope you
13 folks put a little pressure on that outfit
14 to -- so there's not just Verizon in town.

15 MR. LEWIN: One more -- correct me if I
16 am wrong. You don't need a light until you're
17 200 feet and above?

18 MR. CIOFI: That's correct. And in the
19 report we have an FAA report, and this
20 facility will not have a light on.

21 MR. SAUNDERS: Jason Saunders.

22 I already talked to you; you're an
23 independent tower, I understand that. But why
24 does another company have to go through

1 Verizon to get on your tower?

2 MR. CIOFI: They don't. They come to me.

3 MR. SAUNDERS: And also nobody has
4 brought up, what about money? Is that what is
5 keeping AT&T from getting on that tower?

6 MR. CIOFI: It's AT&T's network plan.
7 What we're basically proposing is to build --

8 MR. SAUNDERS: I understand --

9 MR. CIOFI: Hear me out.

10 We're proposing to build a five-unit
11 apartment building.

12 MR. SAUNDERS: Absolutely. The top floor
13 is a thousand and everyone else is five
14 thousand?

15 MR. CIOFI: No, they're all the same.
16 All the same. We have agreements with them.
17 If I charge them double the rent here, then
18 they're not going to go on my Stephentown
19 site. So -- just follow me for one more
20 second.

21 So they have a plan. So when AT&T
22 corporate says, okay, East Syracuse, there is
23 X amount of dollars for the year. You need to
24 build as many sites as you can because we want

1 to increase our customer base so much. So
2 what they then start to look at, is they look
3 at the traffic counts. So they look at Route
4 22 and say, okay, Route 22 has -- let's pick a
5 number -- 10,000 cars a day that go on 22;
6 local traffic, truck traffic; everybody else.
7 Do they want to take that money and cover
8 Route 22 or do they want to go to Colonie or
9 Crossgates? And it costs them the same for
10 their equipment and their antennas and the
11 same for their landlord rent. So are they
12 going to get more customers over at Crossgates
13 or 22 in Cherry Plain? So that's how they
14 have to decide where to put their money.

15 MR. SAUNDERS: Maybe this next question's
16 not for you, maybe it's for the board. We
17 have to make sure that it's equal to everyone
18 to be able to get on this tower, not just the
19 people that's got the top floor.

20 MR. CIOFI: We have a letter in the
21 record that we will not discriminate between
22 carriers. It's a requirement of the town law.

23 MR. SAUNDERS: But what's to stop you
24 from saying, all right, Verizon, the top floor

1 is a thousand, AT&T, you're ten or you're on
2 ten?

3 MR. CIOFI: Because we go back to my
4 whole business model. We would be out of
5 business if I tried to gouge --

6 MR. SAUNDERS: Nothing personal against
7 you or Mariner Tower, but look at Microsoft.
8 If anyone knows the history of Microsoft, they
9 know that Bill Gates was a shrewd evil
10 businessman and now he owns cyberspace.

11 MR. CIOFI: I wish I was as smart as Bill
12 Gates, but I'm not.

13 MR. SAUNDERS: That's what I'm saying.
14 We just got to make sure that there's
15 something in place saying that there's no
16 discrimination against anyone else besides
17 Verizon.

18 MR. CIOFI: Absolutely. Again, that's
19 our whole business model. If we don't rent
20 this out to multiple customers, Mariner's out
21 of business.

22 MR. SAUNDERS: I just want to make sure
23 that the town has control of this because we
24 don't know if Verizon has a hand in the back

1 pocket. We're just taking your word for it
2 and, you know, it's just a concern to
3 everyone. It seems like that's a concern
4 tonight. Because I have AT&T, and if I need
5 cell service because I'm laying in a ditch
6 because I just crashed my car, and Verizon's
7 the only one on the tower, I might as well not
8 even have the cell phone.

9 MR. JACOB: If I could interject one
10 thing? I think part of -- what the problem
11 is, is the funds for their location building,
12 both Verizon and AT&T. And I suspect
13 Petersburg is the same situation, that they're
14 dragging their feet with the Petersburg tower
15 because they're having trouble getting their
16 signal down the hill to the tower, they have
17 to have another location on top to have a
18 clear signal. If they run out of money, then
19 they can't afford to go on all the towers at
20 the same time.

21 MR. SAUNDERS: It's one thing being a
22 cheapskate, but it's another being
23 discriminated against. And we just want to
24 make sure that -- because there's only one

1 cell tower rule; right? One cell tower in
2 Cherry Plain. That's what we hope for.

3 MR. CIOFI: In our application at tab 6,
4 in a letter dated October 13, 2009, from me,
5 "In accordance with Chapter 10, paragraph 6W,
6 1-3, Mariner will respond within 60 days to
7 request a potential new applicant, negotiate
8 in good faith with the wireless service
9 providers for the shared use of the available
10 tower and equipment space, and allow the
11 shared use of the tower based on reasonable
12 charges, rents, provided the proposed user
13 does not cause interference with others."

14 It's right here in the record, we're
15 saying that we're not going to discriminate
16 and we're going to let others on there. So
17 even beyond our business plan, the town law
18 requires it. So you're absolutely right.

19 MR. SAUNDERS: But what does the town law
20 say?

21 MR. CIOFI: They can revoke our permit.

22 MR. SAUNDERS: So if AT&T comes to the
23 town and says, look, I'm trying to get on the
24 tower, I know Verizon is paying 1500 a month,

1 they want 5,000 a month from us --

2 MR. CIOFI: The town is going to call me
3 to task.

4 MR. SAUNDERS: If the law's in place --

5 MR. LEWIN: Come to our March meeting.
6 We're going to go on to another person. Then
7 we'll come back to you if we have time.

8 Anyone else?

9 MR. GIUMARRA: I have one question.
10 Frank Giumarra.

11 Does a 911 call on any cell phone go
12 through whether it's AT&T or Verizon or not?

13 MR. CIOFI: I don't know the answer to
14 that. Maybe --

15 A VOICE: Yes.

16 MR. CIOFI: The answer is yes.

17 MR. GIUMARRA: Well, that's a safety
18 right there.

19 MR. LEWIN: Anyone else?

20 MR. CUMMINGS: Hal Cummings, 16 George
21 Allen Hollow, Cherry Plain.

22 Well, we've heard a lot of stuff tonight.
23 The only thing I can tell you is, the man in
24 the back, I don't know you. I know

1 Mrs. French. You're right. She's right. The
2 Swedes are way ahead of us. Back in the '50s
3 they told us that nuclear power was safe,
4 cheap and reliable. And guess what? They're
5 the Toyota Corollas of today. Right up in
6 Vermont, they're leaking radioactivity all
7 over the place. So who's to say the stuff is
8 safe? It's not safe. It's like your
9 microwave oven. Why do you think that black
10 screen is on there?

11 He made mention of, there's more energy
12 coming out of these lights. That's different
13 energy. We're talking RF energy. We're
14 talking radio frequency. And it's a different
15 kind of radio frequency compared to TV and
16 radio.

17 Now, if you want to compare the two,
18 fine. But the thing is there are, with cell
19 phones, people in the next 10, 15 years you're
20 going to see a lot of people with brain
21 tumors. And a lot of people, as Mrs. French
22 and the gentleman over there -- I don't know
23 your name, sir, what is it?

24 MR. MAY: Eric May.

1 MR. CUMMINGS: Glad to meet you.

2 They try -- it's like the government
3 trying to tell us something is safe. Okay.
4 You get tainted meat. What do they do with
5 it? They feed it to the animals so you get it
6 right back again.

7 Cell towers, how many do you need? This
8 lady over here, she was on the cell phone. I
9 said, "You got bars?" She said yes. So she's
10 already getting a signal. And I don't see
11 where it's necessary, unless she's got a super
12 power cell phone that somebody else doesn't
13 have in this place.

14 You know, it's like with the Corolla, you
15 know, they sold millions of them and now look
16 what's happened. Now we're going to put a
17 cell tower up, and on here -- it's not on this
18 page.

19 MR. CIOFI: What can I do for you?

20 MR. CUMMINGS: Flip it over. Okay, next
21 page. I just want to see the name. Well, we
22 can skip the page, I guess.

23 But Jeanette Gottschalk and Orance
24 Gottschalk, they were my fraternal hosts in

1 'Nam. I painted Doug's house, I don't know
2 how many times because she couldn't paint the
3 top --

4 MR. LEWIN: Let's stick to the subject.

5 MR. CUMMINGS: Well, I'm going to get to
6 the subject. The subject is when the property
7 was transferred to Doug, it was in his trust
8 to protect the property so no development was
9 on it.

10 A VOICE: Now, who told you that?

11 MR. CUMMINGS: And Jeanette -- and I know
12 for a fact from Rosa --

13 MR. LEWIN: All right, Harold. You had a
14 little over three minutes, almost four, and
15 we're going to go on to the next speaker. If
16 you want at the end, you can discuss this with
17 Doug.

18 MR. CUMMINGS: You gave a lot of people a
19 lot more time than I had --

20 MR. LEWIN: Chris did a lot of speaking,
21 too, but you were speaking basically just
22 speaking. So we're going to go on to somebody
23 else now.

24 MR. CUMMINGS: Oh, so you're saying I had

1 nothing to say.

2 MR. LEWIN: I didn't say that. Sit down,
3 please, or stand, whatever makes you happy and
4 we'll go on to the next speaker. And if we
5 have time at the end and you want to speak, as
6 we said before, that's not a problem.

7 Somebody else? Excuse me. You wanted to
8 say something.

9 MR. CUSACK: Mike Cusack, again.
10 Attorney for Verizon Wireless. And I'll just
11 touch on a couple of points. Chris mentioned
12 earlier -- so that the record is clear here --
13 our involvement in deciding needs for Cherry
14 Plain began around this time last year when we
15 filed an application on January 15, 2009 to
16 build a new facility on the Levy property on
17 the opposite side of State Route 22. At the
18 time that that application was filed, the town
19 made us aware that perhaps we hadn't chosen
20 the best spot and would we be willing to
21 consider the Mariner tower facility.

22 So that on April 23, 2009, I wrote a
23 letter to this board requesting that the Levy
24 application be tabled at our request pending

1 further technical evaluation. We wanted to
2 see if Mr. Ciofi's site would work technically
3 for us and, quite frankly, if there was a
4 commitment for him to go forward with the site
5 funding so we weren't delayed two or three
6 years down the road. And fortunately, after
7 speaking to Chris, we found out he was very
8 committed to the location. So on May 21,
9 2009, we provided Chris with a letter of
10 intent explaining the pros and cons of
11 switching to this side of Route 22 on the
12 Goodermote property, as opposed to Levy
13 property that we originally proposed.

14 And I just want to touch on this to make
15 sure it's clear on the record, because I want
16 to make sure that our original analysis for
17 the other site is part of the board's
18 deliberations in this process.

19 We submitted a site selection analysis
20 with our application. It's dated January 14,
21 2009. And, in the interest of staying within
22 the three minutes, I'm going to give you a
23 capsule summary of it. In that analysis, we
24 documented that there's a genuine need for

1 improved adequate and safe Verizon service in
2 the Cherry Plain area in the Town of Berlin.
3 Not just Route 22, but the Cherry Plain area
4 itself. And we submitted a propagation study,
5 which Chris has already put up on the board,
6 and another propagation study showing the
7 coverage we thought we could achieve from the
8 Levy property. So there is definitely a
9 genuine need here from the carrier
10 perspective.

11 Second, in the site selection analysis,
12 we evaluated a number of alternative sites,
13 all in accordance with the criteria of the
14 town's code. The first item the town's code
15 requires us to look at is existing towers or
16 other tall structures. The structure that we
17 looked at was a county EMS tower that was
18 referenced earlier. It is on the opposite
19 side of the ridge line. It's three miles
20 north/northwest of the current location,
21 approximately. And it has no line of sight to
22 New York Route 22 or Cherry Plain itself.

23 Under your code, we're also required to
24 look at existing locations for possible

1 clustering of new towers. That means if
2 there's already one tower, you can build one
3 next to that tower and use that to provide
4 service to the area. A new tower next to the
5 county tower is going to fare no better than
6 the county tower, so the clustering
7 alternative was reviewed and considered.

8 After that we looked at town-owned
9 property. That's what the town's code
10 requires. We looked at the Sand Bank Road
11 property. This did not work. It was
12 two miles to the north and there were too many
13 gaps to the south. We also looked at a piece
14 of property that's near one of the neighbors
15 who spoke tonight. It's at 110 Cherry Plain
16 Square. And that property is only a half-acre
17 in size. It's undersized, it's in a
18 residential area, and it's 283 feet lower in
19 ground elevation. So you'd have to try to
20 make that up in tower height, so looking at a
21 much taller structure. So that was considered
22 not feasible. And a propagation study was
23 provided for each of those town properties.

24 After that, we looked at eight

1 alternative raw land sites, new tower sites.
2 We considered eight properties in an area and
3 provided propagation studies for six of those
4 properties. Importantly in the list of the
5 properties that we considered was the site
6 that Mr. Ciofi is proposing tonight. And we
7 said we were unable to negotiate a lease for
8 that property.

9 So our application dovetails very well
10 with this application, in my opinion. And we
11 think that we've submitted substantial
12 evidence in the record to document the
13 evaluation of a reasonable number of
14 alternative sites. Not every conceivable
15 site, but a reasonable range of alternative
16 sites has been considered here.

17 And taking into account a later report
18 that your consultant requested, we did respond
19 on December 21, 2009 with propagation studies
20 for four additional new tower sites. There is
21 a total of 16 alternatives that have been
22 evaluated for this proposal: One existing
23 tower, one clustering opportunity, two
24 town-owned properties, and 12 new tower sites

1 in the community. These evaluations are
2 supported by 13 propagation studies which you
3 have in your record. And we're convinced that
4 this is a reasonable alternative. It is going
5 to provide the service that's needed in this
6 area. It's not the best or optimal coverage.
7 We admit that. But given the balance of
8 interest that's required of your town to stay
9 150 feet or less, it's what we can do, it's
10 what we can accomplish. We'll accept this.
11 Thank you.

12 MR. LEWIN: Mark Hutchins told us at our
13 last meeting there's a spot by Stage Coach
14 Road will meet with this new tower if it goes
15 through.

16 MR. CUSACK: That's correct. There's
17 nothing we can do about that. We hope it
18 works and we hope you can at least get an
19 emergency call.

20 MR. LEWIN: Anyone else? We'll go back
21 to Eric and come back to Hal.

22 MR. MAY: Yeah, I'd like to just say one
23 more thing. I do hope that you folks weigh
24 all your options. I mean, this gentleman has

1 a good point. A farmer's caught in the field
2 or under his tractor, or something like that,
3 yeah, a cell phone makes sense. But in the
4 long-term, you have to do your own research on
5 it and consider that there might be dangers
6 involved long-term, with children, with your
7 own health. Don't just buy into this. You're
8 going to hear a very biased side coming from
9 this gentleman. I think you need to look to
10 and really consider and I hope you do that as
11 you go on.

12 When is the next meeting?

13 MR. LEWIN: The third Thursday of every
14 month at the Berlin town hall. There will be
15 one in March.

16 MR. CIOFI: If I could just respond
17 quickly.

18 MR. LEWIN: Yes.

19 MR. CIOFI: In regards to bias. The town
20 has a law, a zoning law, and they have
21 different uses that are allowed in the law.
22 And there is a procedure that if you want to
23 open up a gas station or a bakery or a daycare
24 facility or propose a cell tower. There is a

1 procedure and a set of rules that have to be
2 followed.

3 MR. LEWIN: Chris, I'm going to cut you a
4 little short.

5 I was going to say to Eric, come up and
6 see me. We'll set a time. I'll show you the
7 cell tower law, the town law that we have, and
8 also our rules and regulations that Chris is
9 talking about. And this will give you some
10 other information.

11 MR. MAY: What I do want to make known
12 is, this involves other people. It's great
13 and if they're a property owner and he can do
14 what he wants with his property. I'm all for
15 that. Doug's a good man and I want him to
16 benefit from this. But when it affects me or
17 affects other people's health and well-being,
18 then the town should put extra emphasis on
19 making sure that that's covered.

20 MR. LEWIN: Well, we kind of did that
21 with the Berlin tower. We went all through
22 that. So this is sort of the second time
23 around for us with what you're saying.

24 MR. CIOFI: Again, we believe we have a

1 compliant application with the town law.
2 We've provided quite a bit of information that
3 the town requires us to provide. And the town
4 does not take this lightly. The federal
5 government does not take this lightly. Nor do
6 we. And we had to put up thousands of dollars
7 in escrow for the town to hire independent
8 engineers, the town's attorney, the town's
9 court reporter. Mariner is paying these fees
10 so the town can review our application. This
11 is not taken lightly. This is very serious
12 and very detailed information.

13 And yes it is biased because we are told
14 by the town law we need to see this, this and
15 this and we're providing this, this and this.
16 We've hired independent people to review our
17 information. So it is very serious and we
18 take it very seriously.

19 So please, it's on the library website.
20 Feel free to review our information.

21 MS. GILROY: I'd just like to -- it's not
22 related to this, but just going back to some
23 of the concerns raised by people today.

24 How can we find out who has submitted

1 applications for the Satterlee Hollow site and
2 find out what the status is? Because I think
3 it's reasonable that people have been asking
4 for that, if we can provide them with factual
5 information, that may be helpful not only for
6 you but for the people of Berlin.

7 MR. CUSACK: All I can do is ask Verizon
8 Wireless what they will make public. So I
9 will take that as a question to bring back to
10 them.

11 MS. GILROY: Because I think it would
12 clear up any misinformation.

13 MR. LEWIN: Hal? And stick to this topic
14 right here. Not going on to what's going on
15 in Doug --

16 MR. CUMMINGS: Well, basing it on
17 anything the government tells you doesn't mean
18 a damn thing because later on you find out
19 that -- you know, it's like -- Mrs. French,
20 where are you?

21 A VOICE: But he's not the government.
22 He's a cell tower --

23 MR. CUMMINGS: But they regulate it and
24 my point is there's been reports --

1 Mrs. French, she's got like seven, eight kids
2 -- three, four, whatever, but I'm worried.
3 And one thing I do want to say, Doug is my
4 friend. Always been friends with and I'm not
5 attacking you personally. I just don't know
6 about it because this guy hasn't said anything
7 to me that's convinced me that, well, tomorrow
8 they turn -- well, it's like they went to high
9 definition television. The only reason why
10 they did it, is so they could have more cell
11 service. Channel 6. Channel 6 is in every
12 city in the United States, and they want that
13 bands width. Okay, cell phones, like I said
14 before, this lady here, she had a cell
15 phone -- and obviously she was calling her or
16 somebody. And I asked her if she had bars,
17 and she said yes.

18 So my question is, do we really need
19 anything here? That's it. You know, it's
20 common sense. I mean, I'll never own a cell
21 phone. You know, it's just one of the most
22 unreliable. My sister called me just before
23 the --

24 MR. LEWIN: Harold, you've got 15

1 seconds.

2 MR. CUMMINGS: Fifteen seconds. The
3 Vikings and the Saints, New Orleans Saints,
4 when they were playing their game, she called
5 me like four times, and she was in an area
6 that had cell phone coverage. And she kept
7 cutting out. When the game started --

8 MR. LEWIN: Okay, that's it.

9 MR. CUMMINGS: -- I'm not going to answer
10 the phone.

11 MR. LEWIN: Would you please sit or just
12 stand and be quiet.

13 Anybody else want to speak?

14 MR. CUMMINGS: Thank you for your time.

15 MR. LEWIN: Okay, Frank?

16 MR. GIUMARRA: Frank Giumarra.

17 I have three -- father of three grown men
18 that don't sit at home by the telephone
19 waiting for me to call them. When I have cell
20 service, I can talk to them in person or by
21 voice mail every day. And I do. I think
22 that's a valuable thing for any parent to
23 think about. Thank you.

24 MR. LEWIN: Anybody else?

1 MS. ANHRAM: Jan Anhram [phonetic], 92
2 Airport Road, Berlin.

3 I think it would be a good idea -- I
4 think a lot of us have come back to all the
5 meetings and we're sitting here and we've been
6 polite and listened to everyone's opinion.
7 And I think it would be a good idea to take a
8 raise of hands of all of us that are sitting
9 here and are interested, and rather than --
10 you know, we'd like a cell tower, we'd like
11 computer coverage, we would like our loved
12 ones that are on the road, if they get a flat
13 tire or have a problem to be able to be
14 helped. And I think that it behooves the
15 board to say, "A raise of hands of everybody
16 here that would like the cell tower."

17 MR. LEWIN: That was my last thing to do
18 when everybody got through. We did the same
19 thing at the Berlin meeting. We asked at the
20 end of the meeting, those in favor, those not.

21 MS. ANHRAM: And there was two for no,
22 and the rest of the whole place was for it.

23 MS. GILROY: And also for the record,
24 there are 25 Cherry Plain residents.

1 MS. ANHRAM: 25 against 500.

2 MS. GILROY: It doesn't matter. Their
3 opinions still count. We counted those in the
4 last --

5 MS. ANHRAM: Okay. People's lives count,
6 also.

7 MS. GILROY: But we need to be fair about
8 it.

9 MS. ANHRAM: But we've had enough.

10 MR. LEWIN: Anybody else? Ma'am.

11 MS. DeSHANE: My name is Pam DeShane.

12 At the last Berlin meeting when we all
13 met together, I had turned in a petition, and
14 I had 69 signatures on it. And I did take the
15 time tonight to sit there and count, and out
16 of those 69 signatures, 44 of them were
17 actually Cherry Plain. So I resubmit that
18 again.

19 And then there was also some senior
20 citizens who met, and they also -- had also
21 turned in a petition and they would like that
22 also turned in again in support of the cell
23 tower in this area.

24 MR. LEWIN: This is for Cherry Plain?

1 MS. DeSHANE: Well, that one is Berlin,
2 but this one is Cherry Plain.

3 MR. LEWIN: This is senior citizens?

4 MS. DeSHANE: Those are the senior
5 citizens.

6 And I would also like to make it known
7 that I have two young boys; one is 16, the
8 other one is going on 13. My oldest one loves
9 to ride horseback and most of the time he's on
10 his own. It's a major safety issue for me in
11 regards to sending him out. I will tell you
12 about an accident that happened when he was
13 12. He went out riding and it was November;
14 horse came home, but he didn't. I was in a
15 panic. The horse was at the gate. Where's my
16 son. I got all my stuff on, went out the
17 door. And believe it or not, a stranger
18 brought him home to me in a van. That
19 stranger could have just picked that child up,
20 took him with him, and I wouldn't have had a
21 clue where he went.

22 I feel today that cell phone service is
23 very essential.

24 I have a 13-year-old that rides a dirt

1 bike. Don't get me wrong; he is a menace.
2 But I love him greatly. And let me tell you,
3 he gets out there and he goes like there's no
4 tomorrow. Mr. Lewin knows. In fact he's told
5 him several times to stop and slow down. But
6 I'm going to let you know that I'm sure one of
7 these days he's going to ditch that bike. And
8 I'll be honest with you; I bought him a cell
9 phone this year for Christmas. And he uses
10 that more faithfully than you can ever
11 imagine. He even called me from Doug's barn.
12 He goes up with Doug every day and he'll call
13 me and he'll want to know what I'm doing. And
14 I'll tell you what, I thank God that he has
15 that cell phone. Because if something was
16 ever to happen to him up in the barn and Doug
17 doesn't know, there's communication back to me
18 or to his grandmother that something's
19 happened.

20 And I know there is kids out there with
21 cancer. My sister's lived it, four months
22 old, a year and a half. No one knows why she
23 got cancer. It could have been cell stuff.
24 It could have been the fate of God. No one

1 has an answer; she's been in remission. I
2 thank the Lord. But let me tell you what.
3 I'm living history that I'm a walking
4 survivor. I have awful, awful, awful
5 problems. I have an ankylosing spondylitis.
6 I have active uveitis. And let me tell you
7 what: Sure as hell didn't come from cell
8 phones.

9 So a cell phone in this area is a
10 necessity. The whole valley, there's no
11 communication whatsoever at all. I mean, and
12 my 17-year-old even drives now. I mean, he's
13 out 10:00 at night when he gets home from the
14 pizza place. I want to know where he is at
15 11:00, you know what I'm saying, if he's not
16 home. I want to know if he's off in a ditch
17 somewhere or if something's happened to him.

18 So, I mean, we've all lived through all
19 kinds of things. Nuclear, World War II,
20 bombings, the whole nine yards. You can get
21 anything from anything.

22 MR. LEWIN: Fifteen seconds, Pam.

23 MS. DeSHANE: So I believe fully that we
24 need cell service.

1 (Applause)

2 MR. LEWIN: Anybody else?

3 A VOICE: I want to throw a chuckle in.

4 The latest report is using your cell phone
5 will help prevent Alzheimer's.

6 (Applause)

7 (Inaudible)

8 MR. LEWIN: One a time. We'll let Doug
9 go and then we'll go to Connie.

10 MR. GOODERMOTE: Doug Goodermote.

11 I can get cell service in my barn from
12 the Stephentown tower. I can go up to Caleb
13 Carr's barn and get cell service. I can call
14 home from Caleb's barn. Down at my house it's
15 dead. Nothing.

16 MR. LEWIN: Connie?

17 MS. GOODERMOTE: I have OnStar in my car
18 and for some reason I can back it out from my
19 garage and I cannot get my cousin in
20 Tennessee. I can go down to Laurie's house,
21 which is just beyond Vly Hollow which is in
22 direct route to that cell tower on the
23 mountain, and I can talk to my cousin in
24 Tennessee like she's talking to me sitting

1 right beside me in the seat.

2 MR. LEWIN: So you're talking about the
3 cell tower in Goodermote Road?

4 MS. GOODERMOTE: Yes, I am. So you can
5 pick up the frequency, whatever that is, right
6 there.

7 MR. LEWIN: Anybody else?

8 (No affirmative response.)

9 MR. LEWIN: Okay, we thank you. And may
10 we see a show of hands to see who's in favor
11 of the cell tower here in Cherry Plain?

12 (Show of hands.)

13 MR. LEWIN: Thirty-four for cell phones.
14 Against three.

15 Anything else from the folks out there?
16 If not, we thank you.

17 (Whereupon, the proceedings in the
18 above-entitled matter were concluded at
19 9:20 p.m.)

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C E R T I F I C A T I O N

I, ELLEN J. FRANKOVITCH, Shorthand
Reporter and Notary Public in and for the
State of New York, do hereby CERTIFY that the
foregoing record taken by me at the date and
place noted in the heading hereof is a true
and accurate transcript of same, to the best
of my ability and belief.

ELLEN J. FRANKOVITCH