

Testimony of a Public Hearing of the Town of Union Planning Board held at the Town Office Building, 3111 East Main Street, Endwell, NY, Tuesday, September 12, 2017, at 8:07 pm.

PRESENT:

Members present: L. Miller
L. Cicciarelli
S. McLain
A. Elwood
T. Crowley
S. Forster
S. Daglio

Others present: Marina Lane
Alan Pope
Clinton Stratton
Rich Procanik
Kurt Ricker
Carl Guy
Joe DeGennaro
Brett Noonan
Matt Kerwin
Ray Serowik
Wes Miga
Maureen Adams
Lori Maron
Joe Calleo
Bonnie Brown
Alberto Paolini

The Town of Union Planning Board will conduct a public hearing relative to an application by Up State Tower Co., LLC and Buffalo-Lake Erie Wireless Systems to construct a wireless telecommunications facility for improved coverage in Endwell. The project location is 1209 Taft Avenue, on property owned by the Union Center Fire Company (property tax map number 125.11-1-3). The 160-foot lattice tower project includes twelve antennas (3 panel antennas and 1 dish antenna per sector), an equipment pad and related equipment, within a 50-foot by 50-foot fenced compound.

The public hearing will take place on Tuesday September 12, 2017, at 7:10 PM in the Town Board Meeting Room on the second floor of the Town of Union Office Building located at 3111 East Main Street, Endwell, New York. The application is available for

review in the Town of Union Planning Department (at the address listed above) during normal business hours (8 AM to 4 PM).

Individuals with special needs requiring accommodations may contact the Planning Department at 607-786-2985 at least 24 hours prior to the scheduled public hearing. – Paul A. Nelson, Secretary

MS. MILLER: Would you like to say a few words?

MR. KERWIN: I am Matt Kerwin with Barclay Damon Law Firm in Syracuse, here on behalf of Upstate Tower and Buffalo-Lake Erie Wireless Systems, which goes by the name of Blue Wireless. I hesitate to repeat what I presented to you about a month ago, but I am happy to go through it again. Upstate Tower is proposing to construct and operate a 160-foot self-support tower at 1209 Taft Avenue, a property owned by the Union Center Fire Company. Blue Wireless would occupy the tower, and they are an FCC licensed wireless provider similar to Verizon and AT&T. As part of that license, they have the authority to provide service within their licensed area, and that licensed area includes the Town of Vestal, the Town of Union, the City of Binghamton, and essentially the surrounding area within the county here. Therefore, what we are proposing is a tower to be utilized by Blue Wireless to provide coverage to address a gap in coverage. I can show you some excerpts from the plans I provided, as well as the propagation maps to justify the need for the facility. Do you think that is helpful?

MS. MILLER: Sure.

MR. KERWIN: So you are probably all familiar with the property itself. This is Taft Avenue running north to south. The fire company property is right here, and the existing fire company building is right here. There is an existing tower behind the fire company building right here; that is the tower you were just referring to, and that is about thirty-five or forty feet tall. Our proposal would encompass this small area of the property to the north, just off Taft Avenue. We are proposing a short access drive, roughly twenty-five or thirty feet long, into the compound area. There are trees here currently and some of those trees would need to be cleared as you mentioned, Marina, to make room for the installation. The installation itself would be a standard installation for a cell tower of this type. We are proposing a 50' by 50' fenced compound, which would be within our leased area. That compound would consist of gravel beds on which the foundation for the tower would be placed. The foundation has not been designed yet. Investigational analysis occurs when zoning approval is obtained and that design would be provided to the Town as part of the plans.

So this is a blowup of that little corner of the property that I was just showing you, so that Fire Company building is down here, and the existing tower is down here a little bit, and this would be our compound here. So again, the short access drive with a turnaround area, the fenced compound here, and the little cloudlike demarcation indicates where the clearing would extend. There are existing trees that currently run all the way up to here, but again, to make room for this compound, we would need to clear some of those away. Those little pockmarks here, for lack of a better term, indicate that is where the gravel will be placed, and that would be across the entire compound itself. This triangular insignia would be the tower. Looking down the tower into the legs of the tower, these would be the foundations for each of the legs. This little hatched area is what is called an ice bridge or cable thread. When you have a tower facility like this, the antennas need to communicate with the equipment at the bottom of the tower somehow, and that is done by cables. The cables connect to the antennas, and they are attached to the side of the tower. They run down the tower; then at a height of six or seven feet, they attach to this cable tray and run over to connect to the equipment, which would be placed on a concrete pad at the base of the facility within the fenced compound.

This installation, as with any cell tower installation, includes space for additional co-locators, additional carriers that need to put their antennas on this tower. So we are showing little rectangular areas here that would indicate future potential lease areas for those carriers, whether they be emergency service providers, school districts, other wireless carriers like Verizon, or Sprint or whomever. The access gate is here, and then I can show you a straight-on view of the tower itself, but I think most of you saw this at the last meeting. Here is what a self-support tower looks like; it does have the latticework, which obviously strengthens and supports the tower. At the top of the tower, we are proposing to place Blue Wireless's antennas at a height of 160 feet. Their antenna array is a standard array, and consists of a total of nine panel antennas, three microwave dishes, as well as what are called radio receiver units, those little square boxes there, and they accentuate the coverage being disseminated and received. The panel antennas are roughly my size; the microwave dishes are smaller, about two feet around. You can see that a fenced compound surrounds the base of the tower. I believe that the code requires an eight-foot minimum height.

MS. LANE:

I think that is right.

MR. KERWIN:

We will need to revise the plan to address it; our plan currently shows that fence is seven, but we can address to comply with the Code. Again, the equipment will be located on a concrete pad at the base of the tower. The cabling I'm referring to is attached to one of the legs of the tower. This dashed line coming down the middle refers to the cables, and when it gets to the bottom there, it attaches to the cable tray which would then run over and attach to the appropriate cabinets here. This straight-on view shows what the antenna array would look like; and again there are three antenna arrays: alpha, beta and gamma. You have probably all seen cell towers before, and this is how the antennas are configured, on different sides of the tower; and that is what that signifies here, it is simply to provide coverage in as uniform a pattern as possible, which is a good segue to coverage and why we are here.

Blue Wireless, as I mentioned, is the licensed provider here, and they have a need to address a coverage gap in the town, particularly in this area along Taft Avenue. Blue Wireless has existing coverage in certain portions of the town and the surrounding area. This is called a propagation map, and this is Exhibit 6 of the application packet we submitted. This map is prepared by Blue Wireless's radio frequency engineers. They are the folks that determine the amount of existing coverage, and from where and how best to address coverage gaps within Blue Wireless's network.

So what you are seeing here is actually a map of the area, the proposed site here, Taft Avenue, Twist Run Road running this way, and then you see some locations of other sites. So these are existing or proposed sites. This site is actually in the Town of Vestal, 2305 Old Vestal Road, that was just recently approved. What this map is showing is existing coverage, from either approved facilities or facilities that have been proposed for approval. The green represents the signal strength required to provide reliable in-building coverage; and I think I mentioned the last time I was here how that works. When an antenna disseminates a signal, over time that signal dissipates, whether it is due to topography, or trees or buildings, and as that signal degrades, it weakens. Therefore, when it leaves the tower, it is strong enough to provide in-building coverage, but as it gradually travels over the landscape, it weakens to a point where the signal strength is no longer sufficient to provide reliable in-building coverage, but it can provide reliable in-vehicle coverage. So what you are seeing is, in the green here, is in-building coverage provided by these two facilities, and then as that signal dissipates and weakens, it transitions into in-vehicle coverage, which is represented by the blue. So that is the reason for the two different colors here. What we are seeking to provide is in-building coverage to this area

and to areas of the south along Taft Avenue, but also in-vehicle coverage to the extent we possibly can.

The intent with any installation proposed by any carrier would be to try as best they can to connect with their existing network. What you do not want to do is have a number of islands that do not connect with anybody, because then, if you are traveling between these facilities, you have no coverage, which is represented by no color here. When you have no coverage, you have dropped calls, lack of connectivity, and it is important to provide connectivity for people traveling in these areas. You can see on the map below this represents coverage that would be achieved by a facility being constructed and put on air. We address the coverage gap along Taft Avenue very well, and we connect to the existing site to the south and a little bit to the southeast here. We provide a good chunk of in-building coverage to all the residences and other buildings along Taft Avenue, north and south, and east and west.

You may be asking why this is not just a nice uniform circle. That is due to topography for the most part, but also trees and buildings that interfere with radio wave signals. They cannot penetrate through everything, and they bounce off things and change direction a little bit. I think at the last meeting I used the analogy of a flashlight over a table; it is not quite that simple, but it kind of is. And if you move that flashlight, let's say from here to the newly constructed County owned tower about three-quarters of a mile to the northeast, and if we were to move that coverage over here, everything shifts; so now that gap remains. Again, the intent is to address these gaps to the south, and to provide uniform in-vehicle coverage along Taft Avenue and to the businesses to the south.

We did not come into this lightly, and what we tried to do when we proposed this new facility is to analyze existing infrastructure. Are there existing towers, existing water tanks, existing tall buildings on which we could locate Blue Wireless's antennas? In this case, there are none. There is a tower at the site and it is thirty-five feet tall. In the wireless industry, unless you are in an urban area where you have existing good coverage from facilities that surround it, thirty-five feet is not nearly sufficient to provide reliable coverage. As evidenced by the maps, there are no water tanks; there are no tall structures, a skyscraper or something like that. The facilities are not here, and that is not a bad thing, but because of that, we have to propose a facility like this to address our coverage gaps.

When Blue Wireless RF engineers evaluate how to provide coverage to address a gap, they develop what is called a search ring, which is

an area within which the facility is located at an appropriate height which will likely provide the coverage needed to address that gap, and this is the search ring that they developed. So they look at the existing coverage provided by the surrounding facilities, taking into account topography, taking into account the area that they are trying to provide coverage to, and then they place a search ring on the map. Then they work to identify properties within that ring that would be willing to lease land to the power company, to pursue an application.

I should point out that, and I think I mentioned this at the last meeting, Blue Wireless is an FCC licensed provider and they are considered a public utility for zoning purposes in New York State by the Court of Appeals, but they are not a public utility. So what that means is that they don't have the power of eminent domain and they can't simply go and take someone's property for fair market value and put a tower up. We have to find property owners that are willing to lease property to us; and in many cases, property owners don't want to give us 600 square feet to accommodate a fall zone. So we have to work with what we have. In this case, we found a site that we thought was appropriate, that was within our search ring. Here is the search ring and our site would be right there in the northern part of the search ring. As you know, once you get past this point here, you go downhill, and that is not good for us because when we go downhill, we have to either build a taller tower, or it won't work for us from a coverage standpoint because the signal won't travel over the hill and address the gap that we are trying to address.

So, the public utility issue is something we have to work with wherever we go, whether it's in Union or somewhere else, and it really comes down to finding a willing landlord, and being able to identify property that they will lease to us. We also need to find a location that will provide the coverage needed at an appropriate height and which is able to be zoned, quite honestly. We found a site here that has an existing tower, and that does minimize view shed impacts because of the existing tower on the property. We will be providing revenue to this quasi-municipal agency, which is obviously a benefit to the residents of Union, and it addresses Blue Wireless's coverage needs.

I recognize that these towers are visible, but they have to be visible because of what we call line-of-sight coverage. If we were to try to tuck this tower down in the trees, it would defeat the purpose and we could not provide the coverage because the signals would bounce off the trees and would not go anywhere. To be at a sufficient height to provide coverage, it has to be above tree height to be able to see surrounding areas. Visibility, unfortunately, comes with the territory.

We try our best to minimize the visual impact, which is why we selected this area, because it is removed from the residents as much as possible, but also in a location where we could provide other added benefits to the fire company. Any questions on that?

MS. MILLER: Thank-you. Any Board members have questions? If anyone would like to speak in the audience, we just ask that you give your name and address for the record.

MS. MARON: Sure. My name is Lori Maron, and I own the property at 1205 Taft Avenue, along with my mother who currently resides there. I do not reside there at the moment. I have some very serious concerns with this cell tower being built there. I disagree strongly with some of the things that you said about scenic and wildlife impacts. There is a lot of wildlife up there. You can sit in my mother's backyard and watch the deer come through. There are different birds there; and there are many, many different things there. However, I am also concerned with the health aspects of it. From what I understand, there are not even studies because it is above a certain height. I want someone to tell me and prove to me that it is not going to cause any serious health concerns that close. We are on the other side of the fire station. Not only is it very detrimental to the view and quality of life being right near there, but I'm not sure that it is healthy to be right near there. And let's talk about property values; my mother has worked her entire life to buy this property and to take good care of it. We also own the lot at the end of that segment right there on the borderline of Taft and O'Day. What will that be worth now with that giant tower right there? I understand that there is a thirty-foot tower; well there is a big difference between thirty feet and one hundred and sixty feet. In addition, if you look at this picture, I charge any one of you to look at this one picture right here and tell me that this is not going to be detrimental to this farmhouse, that is right next to the fire station. I am sure that it is beneficial to have more cell coverage, but it is not life threatening.

My mother has had two brain tumors and I am very concerned about any radiation that would be coming off that cell tower. Moreover, I happened to learn a little bit with her illness about radiation from Cedar Sinai Medical Center and the people who are the leading people in the world to deal with brain issues. One of the main things that they talked about there, and the reason that brain tumors are so prevalent these days, is because of cell phones. Now if cell phones are causing this amount of radiation, what long-term studies do you have to prove to me that living that close to a cell phone tower is safe? I do not buy it. I am not certain that Dr. Black or any of the people at Cedar Sinai would buy that either.

If none of that matters to any of you, property values should matter. Not only my mom who lives right next door, but the people of O'Day and the people across the street that have the beautiful farm on the hill that take so much pride in their property, so much pride in their home, to have it, in my opinion, destroyed by a giant tower looming over them. I heard you mention with one of the other projects that you were talking about, that it did not cause any detriment to the community, to the people around them; that there was no scenic problem; there were no views; there was no this or that, when you were talking about the other projects. You cannot say the same for this. And I would like to know what recourse we have, and what we can do to stop this; because I feel that it is unfair and it is not worthy of the risk and the problems with the property value decrease for people who have worked so hard to build their lives and their homes there. And I would like to see a study that shows me that it is safe.

MS. LANE: I have one right here.

MS. MARON: Good. And is it long term? It's not real short-term stuff?

MS. LANE: "In 1996 The FCC adopted updated guidelines for evaluating human exposure to RF fields from fixed transmitting antennas such as those used for cellular and PCS ('I think that is the Public Communications Service Systems') cell sites. The FCC's guidelines are identical to those represented by the National Council on Radiation Protection and Measurement (NCRP), a nonprofit organization, chartered by Congress to develop information and recommendations concerning radiation protection. FCC's guidelines also resemble the 1992 guidelines recommended by the Institute of Electrical and Electronics Engineers (IEEE), a non-profit technical and professional engineering society, and endorsed by the American National Standards Institute (ANSI), a nonprofit, privately funded membership organization that coordinates development of voluntary national standards in the United States."

"In the case of cellular and PCS cell site transmitters, the FCC's RF exposure guidelines recommend a maximum permissible exposure level to the general public of approximately 580 microwatts per square centimeter. This limit is many times greater than RF levels typically found near the base of cellular or PCSS cell site towers or in the vicinity of other, lower-powered cell site transmitters. Calculations corresponding to a "worst-case" situation (all transmitters operating simultaneously and continuously at the maximum licensed power) show that, in order to be exposed to RF levels near the FCC's guidelines, an individual would essentially

have to remain in the main transmitting beam and within a few feet of the antenna for several minutes or longer. Thus, the possibility that a member of the public could be exposed to the RF levels in excess of the FCC guidelines is extremely remote.”

And I have other documentation, so if you want to leave your email address with me, I will be happy to send that to you.

MS. MARON: Okay, I will do that.

MS. LANE: On the sign-in sheet. I hope that you signed in.

MS. MARON: I did sign in, yes.

MS. LANE: Okay, just make sure that before you leave, that you leave your email address on the sign-in sheet.

MS. MARON: I will definitely do that. And what about the property values that will be going down due to the cell phone tower? What do we do about that?

MS. LANE: Well, I don't know that anybody has had their property values drop. We have a cell tower on 333 Hooper Road, 701 Hooper Road, 331 Skye Island Drive, 627 Scarborough and 1195 Robinson Hill Road, and now 375 Twist Run Road, and I cannot think of any others right now in the Town of Union, other than the Villages.

MS. MARON: And they are that close to homes?

MR. FORSTER: Those properties at Skye Island Drive aren't worth very much, are they?

MS. LANE: If you drive to the top of Skye Island Drive, you will see that it is right in front of a house, and it is the biggest tower.

MS. MARON: That is really too bad. Would you buy a house right next to a cell phone tower?

MS. LANE: Well, let's just put it this way; some people do value the service and I don't think that there have been any studies documenting a significant change in property values based on having close cellular communication towers. Let me clarify one thing for you. I am not really supposed to be having a back and forth with you. I primarily just wanted to let you know that I did research the radio frequency information. I have not researched the property values. When you want to talk about the visual impacts, the form that we reviewed in

detail in front of you is a form required by the New York State DEC (Department of Environmental Conservation), and they have very specific guidelines that we need to use when we make our evaluations. Similarly, as with what I just offered you with the report I have, I will be happy to send you a copy of that, where you can go on their website and click on a link to see how we are required to review all of those responses. So, for instance, with the visual impact, I tried to be very clear when I read what the question is. Therefore, under visual impact, I must comply with their guidelines that charge that the land use is obviously different from, or in sharp contrast to, current land use patterns between the proposed project and a scenic or aesthetic resource. And I did try to emphasize that those aesthetic resources are specifically identified, such as Mount Marcy or Niagara Falls. Those are the types of resources that they need us to look at. So again, I am happy to send you information.

MS. MARON: What about the people?

MS. LANE: I cannot answer that.

MS. MARON: Do we have any recourse? Is there anything we can do, or am I just wasting my time and my breath?

MS. LANE: You can submit your concern in writing, and if you have other people that are in a similar situation where they are within the view shed of it, the Planning Board can consider those.

MS. MARON: Okay.

MS. LANE: You have to understand that we are practically mandated to approve cell towers unless we find some significant fault in the application.

MS. MILLER: Anyone else?

MS. ADAMS: I would like to ask a couple of questions.

MS. LANE: Your name and address please.

MS. ADAMS: Maureen Adams, 1205 Taft Avenue.

MS. LANE: Thanks. Oh, you are the mother. Thank-you.

MS. ADAMS: She has pretty much said everything. She showed the picture of my house and all my land over to O'Day. This man is from O'Day. I worked real estate twenty-five years and people always do not want to live near cell towers. This lady, who sat by me by coincidence, is

a manager in a real estate office. Myself, I'm twenty-five years in real estate, and the doctor that cut my head open, quite frankly, told me to stay away from radiation. And it's enough to scare you, and I can prove it. I talked to the firemen; they are my friends so I am not trying to hurt anybody, but I am very, very, very afraid. Plus I like to sell real estate; and I listed three acres this week right across the street directly across from the tower.

MS. MILLER: Thank-you. Anyone else?

MR. MIGA: Yes. Wes Miga; I am from Union Center Fire. I am really here to answer any questions that you might have related to it. I think probably Up State Tower has a lot of the data, but one thing that I did want to add, and that is our interest is primarily in public safety. I will not dispute anything that Maureen said. She has been a terrific neighbor to the fire company, directly next door, and certainly that is a perspective that should be considered. I will say, though, the map had a lot of good information about the site, and the drainage, the power and all that kind of thing. The visuals, and the coverage of it and how it connects to the south. I will tell you from my point of view, I am not just the president of the fire company, but I am one of the fire fighters, and the thing that we haven't talked about is the rock cut. Those of you familiar with Taft Avenue know that it goes down the hill to the rock cut. I spend a lot of time down there, more than I want to, with the road closed, especially with motor vehicle accidents down there, and the coverage is not good down there. People who are injured and have car accidents need to call 911, and even emergency responders need to connect; we have radios but there can be problems, and there can be alternate communications that we need also. My biggest concern is that I could be the person driving down the rock cut one day, and hit black ice or something, and end up flipping my car like a lot of people do, and the first thing I'm going to do if I am entrapped in a car is reach for my cell phone and call for help. However, to me there are many considerations, and I am here again to answer any questions you might have; but in terms of public safety and my role in Union Center, it is being able, if somebody is down in that rock cut, for them to be able to get on their cell phone and call for help. If there are any questions, I would be happy to answer them.

MS. MILLER: Thank-you.

MR. CALLEO: Joe Calleo, 34 O'Day Drive. I live down the street from where Maureen lives. Wes, I appreciate your volunteering; you guys do a great job. A couple of questions, one for the Town. Is there any height limit for towers?

MR. POPE: There isn't.

MR. CALLEO: So you can build one that is 400 feet?

MR. FORSTER: You cannot have a rotating sign on a business.

MR. CALLEO: I just have to get some of this stuff off my chest because it's driving me crazy. Number two, and it's not going to happen, but I just have to say, Wes, you talk about the rock cut and that's something that shouldn't be there. They should have cleaned that thing out a long time ago. However, I know you are putting a tower up for cell service down there. But myself, personally, it might not affect property value to some people, but to me, I would never buy a house next one; I wouldn't buy one next to a power line. But listen, everybody is different and I know we all love cell phones and we want them, but again, how much is enough, is enough? I have one more question; what type of compensation are you guys getting for this?

MR. MIGA: I guess I look to Mr. Kerwin on that, because when we signed the contract, and I do not know what the legalities are, but we were not supposed to disclose it.

MS. LANE: We do not know the details either; we just know that it was a signed lease.

MR. MIGA: Not a lot, but you know every dollar that we spend we try to minimize. However, we have two things that I want to emphasize. One, anything that we can recover from the cell company is less than what we have to ask for when we have to come back in this room to ask for an increase in taxes. The second thing is that our land is tax exempt, but their land is not going to be, so they have to pay taxes on it. I know it is not a lot, but whatever it is, a dollar is a dollar. And if they are okay with disclosing it, I don't have any problems with it.

MS. LANE: None of our business.

MR. CALLEO: I have a question for Matt. It is Matt, correct, isn't it?

MR. KERWIN: Yes.

MR. CALLEO: Do you hang other people's antennas on your towers?

MR. KERWIN: We do.

MR. CALLEO: So that means you could get your antennas on somebody else's tower?

MR. KERWIN: Blue Wireless's antennas? Sure.

MS. LANE: They are on the tower right now at Skye Island Drive, and they are on the smokestack at Wilson Hospital.

MR. CROWLEY: I think that it's required by law that if you put up a tower, that other companies can come in to co-locate.

MR. KERWIN: Yes, this tower would be designed to accommodate future co-locators. All of our towers are designed that way. Being a tower company, we are in the business of leasing space on a tower. So it doesn't make sense for us to build a tower that didn't accommodate future co-locators.

MR. CROWLEY: I have another question I would just like to ask, and it might just help with this right here. Isn't there something in your agreement that if you have the license to cover this area here, and you have spots that are not covered, you can lose your license? I remember a long time ago we had some discussion. There was something- if you were not completely covering an area, they could come back at you.

MR. KERWIN: Each license is different. The FCC issues these licenses to different carriers; they auction off spectrums within a wide range. We have a license to provide coverage within a certain spectrum, and I do not know the specifics of what this license requires; but I do know that each license obligates the carrier that has the license to build out their network to a certain degree at a minimum. Then everything beyond that obviously is encouraged as well. The carriers had to seek relief to build towers, and the intent was to provide coverage where there was none, or where there was a gap. The Telecommunications Act of 1996 was passed to foster competition between and among providers. So, the FCC auctioned off the spectrum to different carriers, and each carrier paid a certain amount for each licensed spectrum; and then once they got the license they went out and started building. So when Verizon and AT&T and the others came into this area twenty or thirty years ago, they sat before this forum and asked to seek relief to construct towers. The intent was to provide coverage where there was none or where there was a gap. However, each carrier and each license is different. I can't speak to the specifics of ours. There are typically minimum build-out requirements with each license, and then beyond that, if the carrier chooses to continue constructing his network, that is great because they are authorized to do so by the FCC.

MR. CROWLEY: I thought that was the way the law was.

MR. KERWIN: Yes. When the license is up for expiration, the carrier must seek renewal from the FCC. If the FCC determines that the carrier has not done what it should have done pursuant to its license to build out its network, or to address capacity, which is becoming more of a current issue now given the proliferation of smart phones and the usage of more data (It's not only coverage, it is capacity), and if those two issues aren't being addressed to the satisfaction of the FCC, your license could be in jeopardy.

MR. CROWLEY: So that is why they have to expand. It is a roundabout way to get to why they have to expand, that is all.

MR. FORSTER: I have a question.

MR. KERWIN: Sure.

MR. FORSTER: If the license did not get renewed, what happens to all the towers?

MR. KERWIN: Well, the tower is owned by Up State Tower, not Blue Wireless, so Blue Wireless has the license to operate on the tower. They have a lease agreement with Up State to co-locate on the tower. But if Blue Wireless gets their license revoked, then somebody could pick it up and run with it. The license is typically for a ten-year stretch, and I can tell you that carriers are not in the business of making decisions that put their license in jeopardy. From a business sense, it does not make any sense.

MS. ELWOOD: I have a question.

MR. KERWIN: Sure.

MS. ELWOOD: How many of this type of tower that you say is going to break away, at this height, how many of those towers do you have in operation now?

MR. KERWIN: I do not know

MS. ELWOOD: But do you have several?

MR. KERWIN: Well, yes, multiple. Right off the top of my head, I have probably handled fifteen or twenty in the Southern Tier and other parts of New York State.

MS. ELWOOD: When you have that break point at 140 feet, does the top just fall to the ground, or is it hanging, or what happens to it?

MR. KERWIN: The top would fall over and fall to the ground; that is the way it is designed.

MS. ELWOOD: My main concern is...

MR. KERWIN: Obviously, if you have 300 mile-an-hour winds, you have all kinds of things flying around. But the intent is for this tower to be designed such that when you have a significant storm event, that a breakage will occur through that storm, and everything above that breakpoint would fall from the tower and fall to the ground.

MS. ELWOOD: And the nearest home, should the whole thing fall, is 160 feet?

MS. LANE: No, it is more than 160 feet.

MS. ELWOOD: More than 160 feet?

MR. CALLEO: How far from the road are you set back?

MS. ELWOOD: And you haven't had any failures on those new towers, or you don't know?

MR. KERWIN: No. Up State has not. I cannot speak to other tower companies. Up State has none.

MS. ELWOOD: Okay, thank-you.

MR. KERWIN: And to your question, sir, fifty-plus feet to the road from the base of the tower.

MR. CALLEO: We will be driving by and the whole tower will fall on me.

MR. FORSTER: And lightning strikes you at the same time, too, right? (laughter)

MS. LANE: Mr. Calleo, I just want to remind you that Taft Avenue is owned and maintained by the County, not by the Town.

MR. CALLEO: I do understand. I was just bringing up a point about the rock cut. Sorry.

MS. LANE: Okay.

MS. MARON: I just had one more question. I just wanted to know if you could clarify what you meant by your mandated to approve it. I do not know what that means.

MS. LANE: Well, probably, one of our two attending attorneys can speak to it much more clearly than I can.

MR. POPE: I mean that the Planning Board is not mandated to do anything and I do not think that is what Marina meant.

MS. LANE: I did not mean that.

MR. POPE: I think that what she was saying was that, the municipality under the current law, their hands are tied somewhat when we are dealing with federal statute, the FCC, and cell towers. We are kind of tied up a little bit more as a Planning Board in dealing with those kind of site plan applications than we would, say, for somebody who wants to come in and have a site plan for a new restaurant. We do not have complete control within reason, but we have a lot more control over that than we do over something that is controlled by federal statute. Matt, do you have something to add to that?

MR. KERWIN: Well said; that covers it.

MS. MARON: So the federal government is the one who okayed this. Is that what you are saying?

MR. POPE: No. There just is a federal statute that a local municipality, a town municipality, has to comply with. We cannot, like the old days I suppose, when cell towers were coming out, there were some municipalities who had some very onerous local laws on their books that Matt probably had to deal with. And they were very onerous. Why? Because at that point municipalities, a number of them, not all of them, wanted to keep cell towers out of their municipalities. Federal statute came into play that tells municipalities you cannot do that anymore. So we have a review process, and it is highly related to engineering safety, public safety and things of that nature, that we have to look at. Nevertheless, it is not the same as if it is a new restaurant, a new cleaning store, or something like that.

MS. MILLER: Thank-you.

MR. SEROWIK: Ray Serowik, also representing the fire department. My colleague, Mr. Miga, spoke very well to the importance of public safety to the traveling public. I would also like to point out that there is an important public safety aspect for the residents as well. Now the vast

majority of households that are headed by people under forty years of age do not have a landline telephone. Therefore, that in-building coverage and access to routine and emergency communications is very important.

MR. CALLEO: I have a Verizon phone. Does my cell phone have coverage from your tower?

MR. KERWIN: Verizon operates a different network, so you get a signal from Verizon's antennas, wherever they might be in the town.

MR. CALLEO: I am not trying to get smart.

MR. KERWIN: No, that is okay.

MR. CALLEO: But if I am in the rock cut, and I have an accident and I am on a Verizon phone, I am out of service. Is that correct or not?

MR. KERWIN: There may be a roaming agreement that Verizon has that allows you to access whatever network may be available in the area. I cannot speak to Verizon's coverage.

MR. CALLEO: I never heard of Blue Horizon.

MR. KERWIN: Blue Wireless.

MR. CALLEO: Blue Wireless. I am probably the only person in the room who does not have a cell phone. Hands up, anybody else? (laughter)

MS. MILLER: Thank-you.

MS. ADAMS: I have to tell you he is so right, because it is hard to get Verizon up there.

MR. MIGA: So this is just a commentary. I hope I can say this, but you said that the cell tower provides for additional carriers, and I think I can say that, as far as the original agreement provides for that also, and I think. I would hope Verizon, who does not have the greatest coverage up there, that they would look to an existing cell tower, and I hope that they would go to that cell tower. I would hope it would improve the public safety and the coverage down in the rock cut. I think that it is good for the people who only have cell phones as their only means of communication.

MS. LANE: If Verizon did want to improve their coverage there, they would have to go on that cell tower because we would not allow them to build

another new tower that is within that same coverage area. So that map that Matt was going through first, they first look to see what is existing. I mean they do not want to put the money into building a new tower if they do not have to, anyway, and they are required to look for what is existing. So that is why we had to look at the little tower that is already on your property and say it could not support Blue Wireless's equipment core objectives. It's actually in our zoning code that they have to show that they cannot use what is existing in that coverage area.

Continuation of the September 12, 2017 Public Hearing for a telecommunications facility,
October 10, 2017:

Members present: L. Miller
L. Cicciarelli
S. McLain
A. Elwood
S. Forster
S. Daglio

Others present: Marina Lane
Kurt Schrader
Jimmy Anastos
Steve Anastos
Diane Erle
Brenda Blask-Lewis
Jared Lusk
Brian Weisz
Shalisa Weisz
Chris Stanis
David McDonough
Andrew DeNardis
Roberto Jensen
Debra O'Donovan
Deborah O'Riordan
Declan O'Riordan

MS. MILLER: Up State Tower / Blue Wireless, 1209 Taft Avenue. We are actually here to close the Public Hearing, but have agreed that if anyone wants to speak or give any comments you can. I am assuming that is what you are here for. We just ask that you give your name and address, and keep your comments to three minutes or something like that.

MS.LANE: This folder has everybody's comments, and everybody except Scott got them by email, but Scott did review them all tonight.

MS. MILLER: So would anyone like to comment or speak?

MR. DENARDIS: Three minutes, right, but it probably won't take that long (laughter.) My name is Andrew DeNardis, and I live at 3 O'Day Drive. I don't know if it is possible, but many of us from O'Day Drive went to the Zoning Board of Appeals meeting on September 18, 2017, and they had a stenographer there where they recorded the minutes. I spoke to Ms. Lane and she said that they were in the process of transcribing those minutes, and I would just ask that those minutes, which include all the comments of our entire neighborhood, who are unfortunately unable to be here, be included in the final hearing for this. If that would be possible?

MS. MILLER: Sure. Right, that would be possible?

MS. LANE: I think so.

MR. CICCARELLI: Actually, I was reading some of your letters with a lot of interest. It's a little ambiguous because we read certain studies that say that the towers have an effect on the human body, and I read other studies that say not. Actually the American Cancer Society has a study which actually says that it doesn't affect, but then you read three other articles, and it's all over the place.

MR. DENARDIS: Right. That is what we tried to say. Some people did bring up the health effects, but according to the Telecommunications Act of 1996, section 704, health hazards cannot be addressed with a cell phone tower. The only issues that could be addressed are issues of coverage, and need, and aesthetics. We argued on the basis of aesthetics, that it would drop our property values. We just ask that all of our comments from all the people in the neighborhood that were here for that Zoning Board meeting could be attached to this.

MR. SCHRADER: Marina, the idea that the closing is a significant date because time limits run from the date of the closing, and you don't want to foreclose people who might want to make comments. The distinction here is that you have decided that you are not going to receive any more comments after tonight, verbally, by email, or otherwise. Right? Those comments were made prior tonight?

MS. MILLER: Yes.

MR. SCHRADER: All that is happening is that a transcription of the comments be made so that it can be taken in. You are not taking new comments; you are simply taking in a record of comments that were previously made. So, I don't think there is any problem with getting the transcript after tonight and having somebody argue that some information was allowed to come in after you closed the hearing.

MR. DENARDIS: And that is all we're requesting, that the comments, like Mr. Schrader said, we only want comments included that have already been made.

MS. MILLER: Okay.

MS. LANE: Well, that is the legal reason, but I was going to do it anyway, but thank-you, Kurt.

MS. MILLER: Okay. So if there is nothing else, would someone like to make a motion to close the Public Hearing?

MR. CICCARELLI: I'll make a motion.

MS. MILLER: Lenny. Would someone like to make a second?

MS. MCLAIN: I'll second.

MS. MILLER: Sue. All in favor? All. Opposed? None. Thank-you.

MR. CICCARELLI: Thank you, folks.

MR. DENARDIS: Thank you very much, and have a good evening.

Public Hearing concluded: 8:06 pm.

I, CAROL M. KRAWCZYK, do hereby certify that the foregoing transcript of a Public Hearing of the Town of Union Planning Board is a true, accurate, and complete transcript of my stenographic notes/tape taken at the above time and place.

CAROL M. KRAWCZYK