TOWN OF MILAN PLANNING BOARD MEETING MINUTES – FINAL
WEDNESDAY, JULY 3, 2013

MEMBERS PRESENT:

Joan Wyant, Chairman
Kim Godfrey
John Mautone
Radford West

MEMBERS ABSENT:

Jeffrey Anagnos
James Jeffreys
Kim Koehler

ALSO PRESENT:
William Gallagher, Supervisor
Jack Campisi, Town Board Liaison
Jack Grumet, Town Board

Chairman Wyant opened the meeting at 7:00 p.m.

Public Hearings:

1. **Munsch Two Lot Subdivision:** Lauren Munsch appeared for the public hearing regarding her two lot subdivision of property located at 212 Round Lake Road, tax grid number 6370-00-954632. Ms. Munsch said she has filed the paperwork with the Town's assessor to break off the parcel across the street as a natural subdivision. Her current proposal is a two lot subdivision of the property on the south side of Round Lake Road. Lot 1 will have the existing house and garage and will be +/- 3 acres. Lot 2 will be 4.42 acres and is vacant. There is an existing single access to Lot 1. After discussion with the Dutchess County Department of Public Works, they will eliminate the existing access and create a shared driveway a little bit farther down the road. The proposed driveway has been looked at by the Town Engineer and the Fire Dept. The Dutchess County DPW will determine if the access is acceptable within the next couple of weeks.

   Chairman Wyant read the legal notice that was posted in the paper and sent to neighboring landowners. Ms. Munsch added that she has appeared before the ZBA for variances for Lot 1 for lot width and for the house and garage. The public hearing for the variances is scheduled for Jul 24th. Rita Goetz, 195 Round Lake Road, said she had no complaints about the subdivision but had concerns about water run off as it is an existing problem; she was concerned this proposal would add to the problem. Ms. Goetz said she has a section of her property that can't be mowed due to the run off and it was not that bad before they put the culvert in. She wondered if the subdivision would increase the drainage or water table. Ms. Munsch said no because they are building at the back of Lot 2. But there is a wet area with pooling water near the front of Lot 1 and she said she was not sure if anything can be done as far as drainage for that area. Hearing no additional public comment, Mr. West motioned to adjourn the public hearing until the August 7th meeting as the Board is waiting for additional information from the ZBA and Dutchess County DPW. Ms. Godfrey seconded.

Chairman Wyant	Aye	Kim Koehler	Absent
Jeffrey Anagnos	Absent	John Mautone	Aye
Kim Godfrey	Aye	Radford West	Aye
James Jeffreys	Absent		

Motion carried 4-0-3

2. **Verizon Wireless:** Scott Olson, Attorney for the Applicant, was present for the public hearing for a special use permit and site plan approval for the application of Orange County-Poughkeepsie Limited Partnership d/b/a Verizon Wireless to install and operate a communications facility off Academy Hill Road, tax parcel number 6572-00-862990. Chairman Wyant read the legal notice which was posted in the paper and sent to neighboring landowners. Ronald Graiff, RF Engineer, was also present as consultant for the Planning Board. Mr. Olson said as requested at the last meeting, we have reduced the height of the microwave antennas from 130 feet to the 86 foot level. We have also submitted an updated site plan based on a question that was raised at the ZBA meeting as to whether or not we have enough room for the fall zone and we have shown we do. The last site plan was incorrect. Mr. Olson said Verizon is proposing to install and operate a new cell tower facility off of Academy Hill Road. The height of the tower is in question. We proposed a 150 foot tower and have submitted a variance to 160 feet to accommodate potential future carriers. That variance application has been scheduled for the public hearing for the July 24th ZBA meeting. Mr. Olson said the original proposal was for a 150 foot tower which would work for us. We don't have to go to 160 feet but are happy to do that based on a request from the Planning Board. Part of this project is also installing a 12 x 30 foot shelter at the base of the tower which is standard and is used to house equipment, switches, etc. and is the brains of the facility. Part of our application that we provided was a radio frequency report by Mr. Andras who is the RF Engineer for the applicant. Mr. Olson said Mr. Andras has demonstrated the existing coverage in this area which shows an extensive gap in service along the northern part of 199, depicted on the maps with a white color. He then shows what would be provided if this site would be approved. Mr. Olson said it is critical to realize that before we proposed a new tower, we looked at existing towers in the area to see if installing our antennas on those towers would provide adequate service. If so, we would approach the tower owners to co-locate. However, the existing towers don't provide the service we would require. As part of our application, we submitted a visual impact analysis which illustrates what the tower would look like from various areas in town. We did a balloon test at 150 feet and then super-imposed the tower over the balloon. Mr. Olson said visibility is fairly restricted.

   Joseph Grotto, Fishwoods Road, said he is against the tower. He said this property owner is not the only one in this room that Verizon approached to propose a new tower. He said the hill on Academy Hill Road was selected by a Verizon consultant about five or more years ago. Mr. Grotto said we discussed it, thought about all the financial aspects and how nice it would be to have that income, but we knew our neighbors would have to look at it on this property. Verizon approached others as well, Walt Herman, the Coons down the street. No

one agreed to it. Mr. Grotto said his son is proposing to build a house on the hill and if he does it now, he will be looking smack at a tower about 600 feet away. Mr. Grotto said he does not understand the reason for the height. He has asked several times what the height of the tower is at the town dump. What is the size of that tower? What I was told by Verizon back when they approached me was the reason they wanted it on my hill was to service some black spots on the Taconic. It was not going to do anything for us or our neighbors. Mr. Grotto said he has a black box from Verizon that he paid for, as do other neighbors, and it provides him with cell service at his house. Chairman Grumet said he was approached by another company and turned them down as was Rad West. Mr. Grotto said he does not know who this cell tower will serve, who in the area does not have cell service. What it comes down to from our aspect is, this is a scenic place, he has been here since 1974, and now all of us will have to look at a tower for the benefit of who? Jack Grumet, Academy Hill Road, said usually at presentations such as these, the company will have a large photo of the balloons which he does not see here. Mr. Grumet said he does not want to be hypocritical, all cell phone users want to be able to use their phones. However, the Town's regulations call for balancing the need for the cell tower with the needs of the residents. He does not think it is unreasonable to want reasonable sized antennas, not the maximum. Mr. Grumet said he would like to see some studies of the lowest possible antennas that would still provide adequate coverage. The subject of future additional carriers was addressed at a previous meeting. Mr. Grumet said he is not sure if we should plan for the future in that way. Our own Town tower has vacancies. Technology changes so fast, we don't need a large tower built in anticipation of a tenant that may or may not materialize. Mr. Grumet said he would like to see the smallest tower possible. Mr. Olson said our minimum height is a 150 foot tower, and Mr. Graiff, the Planning Board consultant, reviewed this and confirmed it. We have come in with the lowest height possible recognizing the visual issues. Mr. Grumet said Section 200-21.B.(3) recommends a tower 25 feet above the average tree canopy or 100 feet, whichever is lower. Mr. Olson said generally speaking, signal strength is dependent upon various factors including topography and clutter with the biggest issue being topography. We looked at a 110' tower, ran analysis, and found it would not provide coverage to the gaps. Most Town codes are not based on technical analysis; the intentions are good to preserve the aesthetic qualities of the area, but when we did a specific analysis, a tower at 110' would be throwing money out the window. Regarding the 160', we had a discussion with the Planning Board and Zoning Board and came to the conclusion we could construct the tower at 150' but construct it in such a way that if a future carrier came in and wanted to co-locate higher and they sought a variance to do that, the tower would be structurally sound enough to support the additional 10'. Mr. Grumet said a higher tower would supposedly provide more coverage but that is not balancing the needs of the community. Your needs would be addressed by a 150' tower. The Planning Board needs to look at a more balanced approach which meets the needs of the applicant with as little impact to the neighborhood as possible. Mr. Graiff said in his analysis, at 150' there still remains a gap in the coverage along the Taconic that Verizon found unacceptable in their Fishkill application. Mr. Graiff said he has pointed

out that there are a number of ways to really fill this gap. One way is to use the Mariner Tower in Gallatin along with the Woody Row Road Tower in Milan for a three site solution or Verizon could search for another site to the south with similar or higher ground elevation. As it did not appear to be an issue, no minimum height analysis was done with the three site solution, the three sites being Woody Row Road, Gallatin, and this site at some height other than 150 feet. Would that still be seamless? No. Mr. Graiff said for the record, I did not state I had reviewed what the minimum height would be in a multiple tower solution. That could be reviewed. This site, by itself at 150 or 160 feet, does not fill in the holes due to the terrain. If the 150 feet is permitted, it still does not solve their problems and they will still need more sites for Taconic coverage. Mr. Olson said Verizon is planning on going onto the Mariner tower but it has not been approved yet. That will take care of the Taconic to the north but does not take care of the south. Attachment 7 shows the Taconic gap that remains even with this tower at 150. Other towers would fill that in. It is a multiple site solution. No minimal height analysis was done considering other sites. Paul Doherty, part owner of Red Wing who is the property owner, said this process started over 3 years ago in May when we were approached by an engineer. He said he has a tower on their property in LaGrange with five locators and six cells on the tower and two people have come in to try to put in towers. There is not enough coverage to handle what is going through the towers. If Verizon puts in a 150 foot tower and another carrier comes in and wants to put up a tower, they will have to build a new one instead of co-locate if this one is not high enough. When our tower went up in LaGrange, there were some people in the community upset with it; six months later, they did not know the tower had gone up. There are towers all over and most people drive by and don't notice them. One neighbor thought it would devalue his property; if it will devalue his property, it would devalue ours. We have not seen a devaluation over the years. Alfred LoBrutto, Academy Hill Road, asked how large is this lot? Will it be buffeted by 95 acres or is it a small lot? Will the property be subdivided? Mr. Doherty said it is 123 acres. We presently have an application in to subdivide three lots to the south of the stream, 12 to 14 acre lots. The lot with the tower will be 84 acres. He added that the height of the tower at the landfill is 160 feet. Mr. LoBrutto said he has a number of concerns, one of which is Verizon has requested a variance to 160 feet and the ZBA cannot waiver the 150 foot limit. Mr. Olson said this has nothing to do with the Planning Board and should be stricken from the record. We have this application to the Planning Board and an application for a variance to the Zoning Board which states 160 feet. The Planning Board has zero jurisdiction to address that concern. It is properly before the ZBA. He said he does not want to bog this board down with superfluous issues. Mr. LoBrutto said one Planning Board member suggested you put in an application for 160 feet. They should have told you that you can't be beyond 150 feet. Mr. Olson objects to this. Mr. LoBrutto said Mr. Graiff raised the point about the .05 mile gap on the Parkway. If this gap is not decided in this application, Verizon will be back, probably in the near future, and will submit another application for another tower to cover the gap. It is imperative that the Planning Board looks at the situation and considers the three tower solution where the new tower could be in line with ZBA regulations to stop

at 150 feet. Mr. LoBrutto said he also has concerns with the design of the tower. It is a massive tower with a base of 20 to 25 feet, goes up 150 feet, and is a lattice type of tower with interconnected supports. It is very visible and you will see it. The board should consider a monopole tower with a base of 6 feet tapering up to 2 feet which is much less intrusive to the environment and should blend in better. Mr. LoBrutto said he would like an analysis of that type of tower. He said Mr. Graiff states there is no problem structurally or technically with putting up a monopole tower to 150 feet and the Planning Board should look at that. Mr. LoBrutto said Verizon's notification letter to adjacent landowners was in error stating the tower height as 120 feet yet we know that the tower height is requested at 160 feet. The Towns need to be re-notified. Catherine Gill, Academy Hill Road, asked why the balloon test was done on a Wednesday morning at 8:00 and not done on a weekend when most residents are home. She also asked what the noise level will be, how far will the noise travel, and what will it sound like. Mr. Olson said the noise level will be less than conversation form the property line. Antennas don't make much noise. We do, however, have as part of the proposal a generator for emergency purposes which will be in the housing which is vented. He said we are looking at between 50 to 60 db at the property line. Ms. Gill asked why the project is named Jackson Corners when it is located on Academy Hill Road. That is misleading. Mr. Olson said when the engineers are designing a site, they look at maps for a reference – that name is for their own internal identification system. Kimberly Kahn, 529 Academy Hill Road, said she is opposed to this tower for herself and on behalf of Mr. Zelbo who lives on Academy Hill Road. She asked what time of year was the balloon test done. Mr. Olson said it was done on April 17th of this year. Ms. Kahn said she is concerned about the noise level. Her daughter is 13, they have lived in this neighborhood for 25 years, and she has concerns about health issues – what will happen years from now? Can you guarantee there will be no health issues? Mr. Olson said I can't guarantee that but the Federal Government has said health issues are not proper to bring before any municipality and they have made a determination that there are no such issues. Ms. Kahn said she did an internet search and found where studies have shown that at low levels of radiation, there has been cancer, depression, Alzheimer's, and tissue damage. She said she has a lot of animals and a veterinary study revealed that dairy cows in close proximity to towers have a reduction in milk production with increased health problems. As soon as they are removed from the site, the behavior subsided and when they were brought back, the symptoms returned. She asked Mr. Olson if he had children. Mr. Olson said he does have children and does not have those concerns. Again, the federal government has said this Board cannot consider health issues. Jack Campisi, a Town resident, said based on comments from Mr. Graiff, he suggested the Board look into requesting a study of the minimum height which has not been produced. Mr. Olson said he does not see a problem with that request. Mr. Andras said they have shown existing coverage. Mr. Graiff said he thinks they mean with the multiple site solution. Mr. Andras said if we go any lower, we will have more gaps. We are going onto the Near Road tower and at some point, we will go on the Crown tower or Woody Row Road tower. Mr. Olson said the Woody Row Road tower is very close to this tower. Mr. Graiff suggested they show the

propagation at 100 or 120 with the other tower and that would provide really good evidence that you are at the minimum height. Mr. Andras said right now, we are at just barely enough coverage. Mr. Graiff said it might be obvious, but you have not provided the detail. Mr. Andras said we are not disputing that we need another site to fill the gaps and we recognize we need to fill those gaps. Mr. Olson said we can't do everything all at once but ultimately, this will be a three site solution. Verizon is willing to wait until we get the main site to provide 95% of the coverage first. Mr. LoBrutto said with regard to the coverage issue, this board should not agree to a 150 foot tower without taking care of the ½ mile gap on the parkway. If they have a future solution, propose it now, put it on table now. He is concerned that Verizon will come back and want to stick another tower up and we will have the same problem. They are leaving a gap and will get stuck addressing it later on. Get the solution in place now. Mr. Olson said we can't address it now; we are on a limited budget. We can't have every site we want at the same time; that is not how the industry works. We are covering a gap and leaving a small gap remaining. We would prefer to cover the entire section but that technology won't happen. We have no definite plans and no lease for a third tower. If that comes, we will address it. A Planning Board can't make us submit plans that we are not ready to put in. We can't be forced to do that. Mr. LoBrutto said they could deny an application if it does not cover a significant area. Mr. Olson said he disagrees and that would be a big mistake. Mr. LoBrutto said he does not want the board to be intimidated. He has heard this time and time again as we are a small town. Ms. Kahn said she and the Grottos were also asked to put a tower on their property. She asked how much are they getting to put the tower there? Is it a substantial amount? For us, the neighbors, the small community meant more than having a cell tower. Mr. Grumet said since the balloon test was done when not many people were around to see it, he would like to see big photos of the visual analysis, the before and after photos. He would like to see these left in the Town Hall for some time so the residents can come in and see the impact of the tower. These zoning regulations are our laws and it is important that you take these regulations seriously. A lot of thought went into them. When it says the height should be 25 feet above tree canopy or 100 feet whichever is lower, that is important, it is our guideline and should be taken into consideration. It is within our regulations to allow a variance to 150 feet for adequate coverage. Verizon is asking for maximum coverage. The height of a cell tower to get maximum coverage is not balancing with community needs. A large tower like that will be an eyesore. He would like to see a report for a smaller tower and for the three tower solution. That may be a good balance, addressing Verizon's needs for adequate coverage, not necessarily maximum coverage. Mr. Olson said we can provide photo simulations and he said he never said this is a maximum coverage site and apologized if anyone misunderstood. It is not at all a maximum coverage site and we are understanding of the zoning law. If we could provide adequate coverage at 100 feet, we would. We don't come in and try to intimidate. We have provided expert report and demonstrated minimum height need but we will clarify with further documentation. Mr. Grumet asked what is the threshold for adequate conversation – it does not have to be five bars. Mr. Olson said the courts have not defined adequate coverage.

He said adequate is defined more for coverage of service. It is used by police and emergency vehicles. What if there are gaps in coverage and there is a major accident in a gap? It is important to have blended coverage and that is not defined as one bar or three bars. Mr. Grumet said maybe one solution would be have several small towers on the parkway to provide blanket coverage. Mr. Olson said we can't get towers on the parkway and our goal is not to just cover the parkway. People use cell phones and rely on them. We want those people to have service at their homes and the roads they travel. Mr. Grumet said the Planning Board should look at what is adequate, not maximum. Mr. Olson said he understands that but it gets more technical. If you have one bar of service, that translates to a signal strength which may be good for one or two phone calls, but what if you have more people using the signal. That signal strength gets weaker as it gets utilized. We have to make sure we have a certain threshold signal strength that can accommodate the population. Mr. Grotto said he spoke to two neighbors that could not be here, the Richardsons and the Zelbos who are against the tower. Ms. Kahn asked about the notification requirements for a meeting such as this. Mr. Olson said it is according to the zoning code. Ms. Gill added that while she does not mind the cell tower, she agrees with Mr. Grumet and Mr. LoBrutto that the Town needs further justification for the height and alternate style towers should be considered if appropriate. She said that she does have a box from Verizon but it does not always work. Mr. Olson said in terms of tower style, at this height, we could consider a monopole. Usually, once you get up to 150 or 160, they start to prefer lattices as they are a bit more stable. He will check with the Verizon engineer. Chairman Wyant read into the record a letter from Mary Beth Halpin who supports the cell tower. Ms. Kahn asked if the Town was ever approached by Verizon. Mr. Grumet said Verizon never approached the town.

Hearing no further public comment, Chairman Wyant motioned to adjourn the public hearing to the August 7th meeting pending receipt of the additional information requested of Verizon for additional propagation plots at different heights (100, 120, 140) and overlaid with propagation plots from the Woody Row Road tower and the Gallatin tower. Seconded by Mr. West.

Chairman Wyant	Aye	Kim Koehler	Absent
Jeffrey Anagnos	Absent	John Mautone	Aye
Kim Godfrey	Aye	Radford West	Aye
James Jeffreys	Absent		

Motion carried 4-0-3

Administrative Items:

- **Approval of Minutes**: The June minutes will be approved at the August meeting.

Applications:

1. **Welch/Nicolich Lot Line Adjustment:** Robert Ihlenberg, L.S., appeared regarding a proposed lot line adjustment between the lands of Timothy Welch, 379 Fitzsimmons Road, tax grid number 6474-00-900103 and Carlo Nicolich, Fitzsimmons Road, tax grid number 6474-00-875110. Lot 900103 is a 1.62 acre developed parcel and Lot 875110 is a vacant 1.3 acre parcel. Mr. Ihlenberg said Mr. Welch wants to purchase 0.179 acres from Nr. Nicolich to amend the existing boundary line as the current line goes to the middle of his driveway. The adjusted line with give them the land they are using anyway and it straightens out the property line. Mr. Ihlenberg said he will submit the letters of authorization. Chairman Wyant said based on Section 200-10.B, General Regulations of the Zoning Code, lot 875110 will require a variance since it is a pre-existing, non-conforming lot being made more non-conforming by this action.

   Mr. West motioned that the Planning Board refer this application to the Zoning Board of Appeals for a variance for lot area pursuant to Section 200-10.B of the Zoning Code which states " ..nor shall any lot…in relation to any use be encroached upon or reduced in any manner not in conformity with the lot area…..unless such reduction is granted by the Zoning Board of Appeals in accordance with the procedures set forth in Article VII of this chapter" in order to bring the driveway belonging to Lot 900103 entirely on that property. Mr. Mautone seconded.

Chairman Wyant	Aye	Kim Koehler	Absent
Jeffrey Anagnos	Absent	John Mautone	Aye
Kim Godfrey	Aye	Radford West	Aye
James Jeffreys	Absent		

   Motion carried 4-0-3

   Mr. Ihlenburg will submit the variance paperwork.

Discussion Items:

1. **Foti –** Mr. Foti, who was not present, has site plan approval for his property on Tribune Lane in the HB district for an auto body shop. He would like to lease the property to someone who wants to continue doing the same work along with some repair work. Does the site plan have to be amended? The Board agreed that Mr. Foti should submit a synopsis of the proposed business and then they will consider whether the site plan needs to be amended.

Mr. West motioned to adjourn the meeting at 9:00 p.m., Mr. Mautone seconded.

Chairman Wyant	Aye	Kim Koehler	Absent
Jeffrey Anagnos	Absent	John Mautone	Aye
Kim Godfrey	Aye	Radford West	Aye
James Jeffreys	Absent		

Motion carried 4-0-3

The next workshop is scheduled for Thursday, August 1st and the next meeting is scheduled for Wednesday, August 7th. Both meetings are held at the Town Hall and start at 7:00 p.m.

Respectfully submitted,

Karen Buechele, Clerk
Planning and Zoning

cc: Catherine Gill, Town Clerk
Town Board