



SAVE UPPER BROOKVILLE UPDATE

APRIL 15TH, 2022

Urgent Need

We must protect our rights and need your help! Unless the Board of Trustees listens to our demands to rescind a recent amendment to the zoning code, we will be stripped of our right and ability to impact how cell tower installations proceed in our Village.

What We Want

We want a restored Zoning Board of Appeals with full authority to deny a telecom application if the evidence is there to do so.

The Latest

A robust group of over 30 Upper Brookville residents attended the Board of Trustees (BOT) Meeting at the Village Hall last Monday, April 11th, demanding that the BOT rescind its amendment to the Zoning Code*. This amendment deals with procedures used when a telecom company applies to install wireless facilities (cell towers) on Village owned or leased property. *[See Zoning Code – Article VI entitled “Conditional Uses” Section 205-20 (1)(24)]

David Antwork Esq of Campanelli & Associates PC presented the following points to the Board:

- Prior to the change in code, the Board of Appeals (formerly ZBA) had full power to deny an application if the Board determined that certain criteria regarding a cell tower installation were not met.
 - Criteria under consideration included a cell tower's proper location, co-location issues (i.e., the placement of towers in close proximity), appropriate setbacks from residential homes, height limits, adverse impacts to the neighborhood, aesthetics, property values and more.
- ***The BOT changed zoning code to say that,***
 - “... the Board of Appeals (ZBA) ***shall*** waive or modify any of the conditional use permit standards and criteria in order to allow the erection and use of high wireless telecommunication at property owned by or leased to the Village.” (see *David Antwork's full communication under Expert Guidance*). ***Shall, in legal language means must.***
 - This change in code means the Board of Appeals ***must now grant any and all applications for wireless facilities*** on Village property without exception, and without undergoing the comprehensive review described above.

We Need Your Support. Please Register with Us Today.

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- Residents may still be afforded a Board of Appeals Hearing at which to voice concerns and objections to a cell tower installation, however, resident input will be meaningless before a board that has no power to appropriately weigh and act on the evidence presented.
- Attorney Antwork presented that the **Board of Trustees exceeded its powers under NYS Law** by effectively stripping the Board of Appeals of its power to deny telecom applications, even if there is evidence to the contrary that an installation is not in the best interest of the Village. Applications must now be granted — no matter what.
- Concerned residents were at the meeting to demand that the subsection of code referring to telecom applications on Village property be further amended to restore power back to the Board of Appeals. The language must be consistent with the original intent allowing for proper notice and a meaningful, substantive opportunity for residents to be heard.
- Residents of Upper Brookville would like to avoid litigation. However, if the Board is unwilling to make the demanded change in code, they are prepared to seek a declaratory judgment from a NYS Supreme Court Judge to void this subsection of the zoning code.

What's Next

The matter was left with the Board of Trustees for their consideration. They have no legal obligation to report back to residents, ***so please visit this website for further updates*** regarding Attorney Antwork's action on behalf of Concerned Residents of Upper Brookville.

Please also register your contact information with us so we may alert you to the important updates as they are posted!



We Need Your Support. Please Register with Us Today.