I would make four points:

First, follow the law. Rensselaerville's local law 1 of 1999, number 2 states plainly that no telecommunications tower shall be erected in an area that adversely affects visually sensitive areas. As has been made plain, this proposal adversely affects numerous visually sensitive areas. So…follow the law and reject this application so that we can find a better site.

Second, if you approve the tower, do not expect that it will remain unchanged once it is erected. In 2014, the FCC declared that existing towers could be modified in certain ways without such modifications being subject to local zoning board approval. The FCC took this step to encourage the fast tracking of additional telecommunications services. Once an application is approved, it comes under the control of powerful new federal laws. [For the following modifications, see 6409 (a), section e of the Spectrum law, links below.]

Let me quickly note several modifications to an existing tower that the FCC considers to be outside the authority of local zoning committees and that may significantly alter its appearance. You should expect that these will occur.

First, an existing tower can be raised 20' higher than what was originally approved. The application before you states that the 180' tower will have a 15' antenna mounted just below its top that will raise the total height to 192'. But with the additional 20' any wireless provider can request and be federally empowered to construct even over local objections, the tower base would rise to 200' and the antenna on top would reach 212'. This is far higher than the 180' height that residents have been anticipating and is far higher than the 180' balloon test simulated. More troubling, such a tower would require lights—most likely a blinking light on each of the three struts and one atop the atenna. I would urge the Board to make sure that the tower not have lights, even if it is raised by 20'. That may require the board to reduce the proposed height of the tower to 160', with an antenna on top reaching to 172'. In addition, the zoning board should ask the applicant to provide data and analysis not just on all available towers, but on all available towers with 20' added to their current height, before they are allowed to build a new tower. They have not exhausted all available options until they do that.

Second, once approved, a new tower may be widened by co-location applicants by up to 20'. Once again, the same FCC rule applies—even over local objections. So rather than looking at a single cable tethering a 6' balloon, residents would be looking at an ungainly triangular lattice-work structure with a 20' arm.

Third, a tower may have up to 4 additional equipment cabinets installed beyond what has been approved by the zoning board. So the drawing we've been given by the applicant won't bear much resemblance to the actual tower.

Fourth, the "site" that can be modified after a zoning board approves the application is defined by the FCC as "the current boundaries of the leased or owned property". [Section 6409(a) e-198] Since the entire 103 acre leased area is open to modification, not just the ½ acre site used by the tower itself, the board may want to review the leased parcel, along with the proposed site map.

Please note that these modifications can happen quickly. A tower is defined as "existing" and thus open to these federally mandated modifications when it has been "reviewed and approved under the applicable local zoning or siting process" or when "existing transmission equipment" is deployed. [Section 6409(a) c-174.]

The only exceptions that can be made to the above mandates are for health or safety reasons or if a tower is originally designed to diminish its visual impact. If, for example, a tower uses camouflaged paint or branches, the FCC recognizes it as located in a visually sensitive area and admits that the above modifications may thwart the original purpose of the zoning approval. [Section 6409(a) e-188.] Aesthetic objections cannot be raised concerning these modifications after the application has been approved if no steps were taken to indicate that the tower is in a visually sensitive area during the initial siting process.

Third, the Zoning Board has tried to exempt this application from our town's zoning regulations on the grounds that it is a dedicated, public safety telecommunications tower. There are two problems with this. First, the applicant's drawing indicates that they plan to have wireless communication boxes located on the tower, making it a mixed use rather than single purpose tower. Second, the distinction between dedicated, single purpose towers and all other towers is in conflict with the FCC's definition of telecommunications towers. (It is true that prior to 2014, the FCC made a distinction between telecommunications towers used for personal wireless services and those towers used for other wireless transmissions, such as public safety. Rensselaerville's 1999 zoning code and the proposed zoning rules both reflect this former FCC definition of "telecommunication towers." And I suppose the Board had that distinction in mind when it tried to exempt this application from our town's zoning laws. But the FCC's definition has since changed.) The FCC now defines all telecommunications towers the same way, namely, as commercializable entities to be used for the rapid expansion of co-located wireless services. In its sole definition of wireless towers, the FCC includes: "commercial mobile, private mobile, broadcast, and public safety services, as well as fixed wireless services such as microwave backhaul or fixed broadband." [Section 6409(a) – a146.] This new FCC definition of wireless towers is important to you because the planning Board is considering making an exception to our zoning regulations for something that cannot legally exist, namely a differentiated sole purpose safety communication tower. I therefore urge the Board not to grant an exemption to this application and to demand that it abide by the town's zoning regulations.

Bear in mind, please, that Rensselaerville's zoning laws and comprehensive land use plan constitute a substantially validated public concern and public record that aims to protect Rensselaerville's viewsheds as a shared resource. Our comprehensive land use plan and

zoning regulations represent the consensus of the entire township of Rensselaerville, not just the hamlet. They express an enduring commitment to preserve the unique character of the town as a place filled with protected scenic vistas, open rural spaces, and historical landmarks. If a vital telecommunication service needs to be located in this community, locate it according to the zoning rules for telecommunication towers and consistent with our Comprehensive Land Use plan. And deliberate so that you are not in conflict with the definitions of what the FCC declares an existing telecommunication tower can be.

Fourth, don't give permission to the applicant to build an outdated and less secure telecommunications system when a much more robust and effective network is right now being deployed across all 50 states and 6 US territories.

In February of 2012 the US Congress "created the First Responder Network Authority (FirstNet). The law gives FirstNet the mission to build, operate and maintain the first high-speed, nationwide wireless broadband network dedicated to public safety. FirstNet will provide a single interoperable platform for emergency and daily public safety communications." (from Firstnet.gov) Congress authorized $7 billion to deploy this network. This network is different from and will replace the land mobile radio network that the application before you relies upon. If the Board approves this application, it would be like authorizing the production of a fleet of biplanes when the state of the art demands jet aircraft. To be specific, here are some of the advantages of FirstNet that make it preferable:

First, "Today, first responders rely on more than 10,000 separate, incompatible, and often proprietary land mobile radio networks. This makes it difficult, and at times impossible, for emergency responders from different jurisdictions to communicate, especially during major emergencies. FirstNet devices will work anywhere on the network and will save time when seconds matter." (from FirstNet.gov)

Second, when masons build walls, they put footings beneath everything, to spread out the load. FirstNet's network is similarly broad-based. It does not rely on two, three, or four very tall towers, but on multiple, relatively short antennas. This makes the system more flexible and more nimble and more secure. According to their website, "FirstNet [looks to] use existing infrastructure to build its new Band 14 network. [They will] leverage existing government and commercial buildings, towers, fiber or microwave backhaul and data centers." (from FirstNet.gov)

In sum, the Board should not approve an application that relies on a technology that is already outdated and is ill-equipped to meet the needs of first responders.

Submitted to Planning Board on 090315 to be included in the public record by Tom Dickens