



# NEIGHBORHOOD ALERT

April 5, 2022

Dear Upper Brookville Neighbor,

## The Issue

Do you know that the Mayor is on record, stating his intention to install cell towers right inside our neighborhoods? And do you know that the Mayor and Board of Trustees stripped residents of their due process and administrative law rights to be heard on this matter in violation of New York law? Conversations between the Board of Trustees and ATT have been underway about this, for some time. One, and possibly two, 140-foot towers in the Village of Upper Brookville — both of which likely will be increased to 160 feet (16 stories tall), in order to accommodate additional telecom carriers' antennas, are being discussed. We are not opposed to wireless installations in the Village. We all rely on our cell phones, so it's important that we have adequate service. We are, however, opposed to allowing the Mayor and the Board of Trustees to unilaterally approve these towers without allowing the residents a say in how, where, or indeed whether they should be built.

## Where We Were

Under long-standing provisions of the Upper Brookville Zoning Code, telecom providers were required to apply for a conditional use permit in order to build a cell tower. The code required that nearby neighbors be notified. They were then given an opportunity to appear before the Zoning Board of Appeals (ZBA) to air their concerns, and to oppose cell tower installations. If the ZBA determined that cell towers had an adverse impact on residents and the neighborhood, ***the ZBA had full power to deny the telecom provider's conditional use permit application.***

## What Changed

***This last provision, no longer applies. The Mayor and Board of Trustees—in violation of New York State Municipal Law - stripped the ZBA of its power to deny a conditional use permit for cell towers. They, and they alone, now have the power to grant the permit.*** This means that a ZBA hearing on the cell towers will be a charade. If we present credible evidence at a hearing as to why a cell tower installation should be disallowed, or suggest an equally effective but less intrusive solution to expanding wireless coverage in the Village,

it won't matter because the ZBA has been stripped of its power. The decision will be made by the Mayor and the Board of Trustees acting alone—a scenario where politicians make the important decisions and the people they were elected to represent have no say.

### **Protection of Our Right to Due Process, Requires Legal Action**

Losing our right to protect our homes and be treated fairly by our Village Boards didn't sit well with us, so we have sought legal counsel from a seasoned expert in telecom and land use law.

***In the next several days we will file a Declaratory Judgment Action requesting that the Nassau County Supreme Court enjoin further action by the Mayor and the Board of Trustees on the cell towers, and rule on the merits that they have exceeded their authority under New York law by stripping the ZBA of its power to decide upon cell tower conditional use permit applications.***

If we prevail, every future cell tower application, big or small, will be reviewed by a ZBA with fully restored powers, and we will exercise our full right to be heard.

### **What you Can Do**

***Attend the Village Board of Trustees Meeting on Monday, April 11th @ 5:30-7:30 pm.***

Your presence is critical to protecting our right to fair representation, to protecting our property values, our well being and the environment. Even if you are in favor of such cell tower installations, it is important that you attend and send a clear message to the Mayor and the Board of Trustees that you are unhappy with their illegal attempt to strip Village residents of their right to be heard, and to make this important decision alone and behind closed doors. ***The meeting will be held at the Village Hall, 24 Wolver Hollow Road, Upper Brookville, NY 11545.*** Visit our website: [saveupperbrookville.org](http://saveupperbrookville.org), for ongoing information about this effort, and consider giving us your email, so we may quickly contact you with important updates. Thank you for your consideration of this time sensitive, extremely important matter. We strongly hope to see you at the upcoming meeting.

Respectfully,

*Concerned Property Owners in Upper Brookville*

Website

[www.saveupperbrookville.org](http://www.saveupperbrookville.org)

