

## Donna Conkling

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**From:** robertbergesq@aol.com  
**Sent:** Tuesday, January 11, 2022 3:00 PM  
**To:** Mayor; Manager's Department; Attorney's Office; Clerk's Department  
**Subject:** Scarsdale Wireless Ordinance

**CAUTION:** External sender.

Dear Jane, Rob, and Dan. In proofing the proposed ordinance in advance of tonight's meeting, I found a couple of minor errors. In Section 306-8B, shouldn't the decision be made by the Planning Board rather than the Village Engineer? In Section 306-13, shouldn't the Planning Board be responsible for execution rather than the Village Engineer?

On the Application for the Permit in the public right of way, in the Instructions section, on page 6, the instructions refer to Code Chapter 256, Article VIII and Chapter 310, Article XII. We've now moved everything to Chapter 306, right?

Those are all the nits I've found. Although not needed for tonight's meeting, I believe the application should be modified to require the applicant to explain why it seeks to add the wireless facility. Is it to close a significant gap in service or capacity? Typically, applicants are required to do so, and to show that the proposed facility will solve the problem, and is the least intrusive means to do so. Usually, applicants must supply a study supporting this which includes a RF analysis certified by a licensed RF engineer and a site selection analysis demonstrating that the applicants examined multiple sites before determining that the selected site is the most suitable site for solving the problem in the least intrusive manner.

I think we've made tremendous progress and accomplished the goal of creating a robust wireless ordinance that maximizes local control, yet complies with federal and state law. The "safety valve" allowance for one-off waivers is really the key safe harbor for the Village in avoiding any claim of prohibition of service on account of the various restrictions in the ordinance. An applicant is always afforded the opportunity to make the case as to why its facility must be located at a particular site, even if one or more statutory requirements must be waived. And that's how it should be, IMHO.

I look forward to tonight's public hearing. Best, Bob Berg.