

ZONING BOARD OF APPEALS

NOTICE OF PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN, that the Zoning Board of Appeals of the Town of Lewisboro will hold a Public Hearing on Wednesday, October 28, 2015 at 7:30 P.M., at the Town of Lewisboro Offices at Orchard Square, 20 Cross River Shopping Plaza, Lower Level, 20 North Salem Road, Cross River, New York 10518 regarding the following:

CAL. NO. 30-15-SP

Application of Beverley Wilson, 57 Bouton Road, South Salem, NY 10590 for the renewal of a Special Permit pursuant to Article IV, Section 220-23A (9) and Article V, Section 220-38 of the Zoning Ordinance to allow the Storage of Contractor's Equipment.

The property is located on the south side of Bouton Road, designated on the Tax Map as Sheet 31, Block 10805, Lots 56 and 66, in an SCR-2A, Special Character Two-Acre Residential District.

Additional information regarding this application may be obtained from the Secretary to the Zoning Board of Appeals at the Town Offices at Orchard Square, 20 Cross River Shopping Plaza (P.O. Box 725) Lower Level, 20 North Salem Road, Cross River, New York 10518 during regular business hours. At such Hearing, all interested parties may attend and will be heard.

**Dated this 12th day of October, 2015
in Cross River, New York**

**ZONING BOARD OF APPEALS
TOWN OF LEWISBORO
By: Robin Price, Jr.
CHAIRMAN**

The Town of Lewisboro is committed to equal access for all citizens. Anyone needing accommodations to attend or participate in this meeting is encouraged to notify the Secretary to the Zoning Board of Appeals in advance.

Town of Lewisboro

P. O. Box 725
20 North Salem Road, Cross River, New York 10590

APPLICATION TO THE BOARD OF APPEALS

*Cal. No. (B.Z.) **Cal. No. 00-15- (S.P.)

I. IDENTIFICATION OF APPLICANT & PROPERTY OWNER

Applicant's Name: Beverley Wilson Phone: 914-763 3878
Address: 57 Bouton Rd South Salem NY E-Mail: mjmaddock@gmail.com
Owner's Name: Beverley Wilson Phone: 914 763 3878
Address: 57 Bouton Rd South Salem NY E-Mail:

II. TO THE ZONING BOARD OF APPEALS OF THE TOWN OF LEWISBORO:

Application is hereby made for:

- A Variation of Article IV/V Section 220-23(A)(9) / 220-38(A)(8) of the Zoning Ordinance.
A Special Permit pursuant to Article Section of the Zoning Ordinance. Renewal of SP for temporary storage of contractor's equip. original SP 1408-SP
An Interpretation of the Zoning Ordinance or Zoning Map.
A Variation of Section 280 (a) of the Town Law.
An appeal from an Order of the Building Inspector to correct a Violation of the Housing Code
(Other)

AND FURTHER DESCRIBED AS FOLLOWS:

III. IDENTIFICATION OF PROPERTY:

Location of Affected Premises: 57 Bouton Rd South Salem NY
Tax Map: Sheet 0031 Block 10805 Lot(s) 056/066
Zoning District: R1A Lot Area: 21 Acres

IV. ADDITIONAL INFORMATION

Have previous appeals/special permits been filed in regard to these premises? (if yes, please give calendar number & date)

Cal. No. 1408-SP Date Cal. No. 31-135P Date 10/31/13
Cal. No. 21-115P Date

Has a court summons been served relative to this matter? NO

Have you inquired of the Clerk of the Town of Lewisboro whether there is any petition pending to change the use district regulations affecting the block on which these premises are located? yes. No
Petitions pending

Attached hereto and made a part of this application, I submit the following:

- A copy of the ground and floor plans with all necessary measurements.
A property survey.
A signed consent by the owner of the property if the applicant is not the owner.

V. APPROVED FOR SUBMISSION:

Applicant's Signature: Beverley B. Wilson Date: 9/4/15

VI. RECEIPT:

Date Received by Clerk: 9/4/15 Fee Received \$: 500.-
Check #: 1621 Receipt #: 26266

* EXPIRATION: (§ 220-74E(5)) "A variance shall be deemed to authorize only the particular use or uses specified in the decision, and unless other provisions are set forth by the Zoning Board of Appeals in connection with their decision, shall expire if work is not initiated pursuant thereto within one (1) year, of if said use or uses shall cease for more than one (1) year."

**Storage of Contractor's Equipment requires an additional fee for each required off-street parking space.

*** Accessory Apartment applications will also require an additional fee for filing the legal instrument with Westchester County.

AFFIDAVIT OF OWNERSHIP

State of New York,

County of

Beverly Wilson being duly sworn, deposes

and says that he resides at 57 Barton Rd in the Town of Lewisburg

in the County of Westchester in the State of NY and that

he is the owner in fee of all that certain lot, piece or parcel of land situated, lying and being in the

Town of Lewisboro, N.Y., aforesaid and known and designated on the Tax Map as Lot Number 055/066 in Block 1.0805 on Sheet 003.1 and that he hereby authorizes

to make the annexed application in his behalf and that the statements of fact contained in said application including the statements contained in all of the exhibits transmitted herewith are true.

Sworn to before me, this 4th

day of September, 2015

Janet L. Donohue (sign here)

(over)

JANET L. DONOHUE
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01DO6259627
Qualified in Westchester County
Commission Expires April 16, 2016

**ZONING BOARD OF APPEALS
NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN, that the Zoning Board of Appeals of the Town of Lewisboro will hold a Public Hearing on Wednesday, October 28, 2015 at 7:30 P.M., at the Town of Lewisboro Offices at Orchard Square, 20 Cross River Shopping Plaza, Lower Level, 20 North Salem Road, Cross River, New York 10518 regarding the following:

CAL. NO. 31-15-BZ

Application of Ken Okamoto, 46 Old Stone Hill Road, Pound Ridge, New York (Susan Blaivas, 48 Bishop Park Road, Pound Ridge, NY, owner of record) for a variance of Article IV § 220-23E of the Zoning Ordinance in the matter of a 500 gallon propane fuel tank that is proposed to be located closer to the side lot line than permitted (15' where 30' is required) in an R-1A, One Acre Residential District.

The property is bisected to the east and to the west side by (#48) Bishop Park Road, Pound Ridge, New York and designated on the Tax Map as Sheet 45, Block 10274, Lot 11, consisting of 5.50 acres in an R-1A, One Acre Residential District.

Additional information regarding this application may be obtained from the Secretary to the Zoning Board of Appeals at the Town of Lewisboro Offices at Orchard Square, 20 Cross River Shopping Plaza (PO Box 725) Lower Level, 20 North Salem Road, Cross River, New York 10518 during regular business hours. At such hearing, all interested parties may attend and will be heard.

**Dated this 15th day of October, 2015
in Cross River, New York**

**ZONING BOARD OF APPEALS
TOWN OF LEWISBORO
By: Robin Price, Jr.
CHAIRMAN**

The Town of Lewisboro is committed to equal access for all citizens. Anyone needing accommodations to attend or participate in this meeting is encouraged to notify the Secretary to the Zoning Board of Appeals in advance.

Town of Lewisboro

P. O. Box 725
20 North Salem Road, Cross River, New York 10590

APPLICATION TO THE BOARD OF APPEALS

*Cal. No. 31-15 (B.Z.) **Cal. No. (S.P.)

I. IDENTIFICATION OF APPLICANT & PROPERTY OWNER

Applicant's Name: KAN Okamoto Phone: (914) 391-2646
Address: 48 Bishop Park 46 Old Stone Hill Rd. Pound Ridge, NY E-Mail: koia@optonline.net
Owner's Name: Sue Blaivas Phone: 763-9129
Address: 48 Bishop Park E-Mail: jgblvs@gmail.com

II. TO THE ZONING BOARD OF APPEALS OF THE TOWN OF LEWISBORO:

Application is hereby made for:

- XA Variation of Article IV Section 220-23 E of the Zoning Ordinance.
A Special Permit pursuant to Article Section of the Zoning Ordinance.
An Interpretation of the Zoning Ordinance or Zoning Map.
A Variation of Section 280 (a) of the Town Law.
An appeal from an Order of the Building Inspector to correct a Violation of the Housing Code Section
(Other)

AND FURTHER DESCRIBED AS FOLLOWS: 500 Gal L/P Tank 15' from side property line where 30' min is required

III. IDENTIFICATION OF PROPERTY:

Location of Affected Premises: 48 Bishop Park
Tax Map: Sheet 45 Block 10274 Lot(s) 11
Zoning District: 1A Lot Area: Acres

IV. ADDITIONAL INFORMATION

Have previous appeals/special permits been filed in regard to these premises? (If yes, please give calendar number & date)

Cal. No. Date Cal. No. Date
Cal. No. Date Cal. No. Date

Has a court summons been served relative to this matter?

Have you inquired of the Clerk of the Town of Lewisboro whether there is any petition pending to change the use district regulations affecting the block on which these premises are located?

Attached hereto and made a part of this application, I submit the following:

- A copy of the ground and floor plans with all necessary measurements.
A property survey.
A signed consent by the owner of the property if the applicant is not the owner.

V. APPROVED FOR SUBMISSION:

Applicant's Signature: Sue Blaivas Date: Sept 25, 2015

VI. RECEIPT:

Date Received by Clerk: 9/25/2015 Fee Received \$: 250.-
Check #: 47115 Receipt #: 2634

* EXPIRATION: (§ 220-74E(5)) "A variance shall be deemed to authorize only the particular use or uses specified in the decision, and unless other provisions are set forth by the Zoning Board of Appeals in connection with their decision, shall expire if work is not initiated pursuant thereto within one (1) year, of if said use or uses shall cease for more than one (1) year."

**Storage of Contractor's Equipment requires an additional fee for each required off-street parking space.

*** Accessory Apartment applications will also require an additional fee for filing the legal instrument with Westchester County.

AFFIDAVIT OF OWNERSHIP

State of New York, Susan Blaivas being duly sworn, deposes
County of Westchester and says that he resides at 48 Bishop Pk Rd in the Town of Pound Ridge
in the County of Westchester in the State of New York and that
he is the owner in fee of all that certain lot, piece or parcel of land situated, lying and being in the
Town of Lewisboro, N.Y., aforesaid and known and designated on the Tax Map as Lot Number
in Block on Sheet and that he hereby authorizes
to make the annexed application in his behalf
and that the statements of fact contained in said application including the statements contained in all
of the exhibits transmitted herewith are true.

Sworn to before me, this 25th
day of September 2015

Marilyn J. Hall
(sign here)

(over)
MARILYN J. HALL
Notary Public, State of New York
Qualified in Westchester County
Reg. No. 01HA6102570
My Commission Expires 12/9/15

ZONING BOARD OF APPEALS

NOTICE OF PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN, that the Zoning Board of Appeals of the Town of Lewisboro will hold a Public Hearing on Wednesday, October 28, 2015 at 7:30 P.M., at the Town of Lewisboro Offices at Orchard Square, 20 Cross River Shopping Plaza, Lower Level, 20 North Salem Road, Cross River, New York 10518 regarding the following:

CAL. NO. 32-15-BZ

Application of New York SMSA Limited Partnership d/b/a Verizon Wireless, c/o Snyder & Snyder, LLP, 94 White Plains Road, Tarrytown, NY 10591 [Owner of Record: American Tower, 10 Presidential Way, Woburn, MA] to re-approve the variances previously granted under Cal. No. 27-12-BZ on January 30, 2013 and expired February 1, 2014 for a variance of Article V, §220.41.1(E)1 of the Zoning Ordinance in the matter of the proposed replacement and collocation of additional antennas on a wireless facility that are to be located on the Tower at a maximum height of 138'3", below the height of existing antennas on the Tower which are in excess of 158'.

The property is located on the south side of Route 35, designated on the Tax Map as Sheet 40, Block 10263, Lots 1 and 62 in an R-4A, Four-Acre Residential District.

Additional information regarding this application may be obtained from the Secretary to the Zoning Board of Appeals at Town of Lewisboro Offices at Orchard Square, 20 Cross River Shopping Plaza, Lower Level, 20 North Salem Road, Cross River, New York 10518 during regular business hours. At such Hearing, all interested parties may attend and will be heard.

Dated this 15th day of October, 2015
in Cross River, New York

**ZONING BOARD OF APPEALS
TOWN OF LEWISBORO**
By: **ROBIN PRICE, JR.**
CHAIRMAN

The town of Lewisboro is committed to equal access for all citizens. Anyone needing accommodations to attend or participate in this meeting is encouraged to notify the Secretary to the Zoning Board of Appeals in advance.

Town of Lewisboro
P. O. Box 725
20 North Salem Road, Cross River, New York 10590

APPLICATION TO THE BOARD OF APPEALS

*Cal. No. 32-15- (B.Z.) **Cal. No. (S.P.)

I. IDENTIFICATION OF APPLICANT & PROPERTY OWNER

Applicant's Name: New York SMSA Limited Partnership d/b/a Verizon Wireless Phone: 914-333-0700

Address c/o Snyder & Snyder, LLP, 94 White Plains Road, Tarrytown, NY 10591 E-Mail lsnyder@snyderlaw.net

Tower American Tower Owner's Name: Phone:

Address 10 Presidential Way, Woburn, MA E-Mail

II. TO THE ZONING BOARD OF APPEALS OF THE TOWN OF LEWISBORO:

Application is hereby made for:

- A Variation of Article V Section 220.41.1 (E) 1 of the Zoning Ordinance.
 A Special Permit pursuant to Article Section of the Zoning Ordinance.
 An Interpretation of the Zoning Ordinance or Zoning Map.
 A Variation of Section 280 (a) of the Town Law.
 An appeal from an Order of the Building Inspector to correct a Violation of the Housing Code Section
 (Other)

AND FURTHER DESCRIBED AS FOLLOWS: Height variance for antenna work consisting of replacing antennas on existing tower.

138' 3" where 120' is indicated

III. IDENTIFICATION OF PROPERTY:

Location of Affected Premises: Route 35

Tax Map: Sheet 40 Block 10263 Lot(s) 1 & 62

Zoning District: R-4A Lot Area: Acres

IV. ADDITIONAL INFORMATION

Have previous appeals/special permits been filed in regard to these premises? (If yes, please give calendar number & date)

Cal. No. 27-12-BZ Date 01/30/2013 Cal. No. Date

Cal. No. Date Cal. No. Date

Has a court summons been served relative to this matter? No

Have you inquired of the Clerk of the Town of Lewisboro whether there is any petition pending to change the use district regulations affecting the block on which these premises are located?

Attached hereto and made a part of this application, I submit the following:

- A copy of the ground and floor plans with all necessary measurements.
A property survey.
A signed consent by the owner of the property if the applicant is not the owner.

V. APPROVED FOR SUBMISSION:

New York SMSA Limited Partnership d/b/a Verizon Wireless

Applicant's Signature: BY: [Signature], as attorney Date: October 1, 2015

VI. RECEIPT:

Date Received by Clerk 10/21/15 Fee Received \$ 252.-

Check #: 3568 Receipt #: 26315

* EXPIRATION: (§ 220-74E(5)) "A variance shall be deemed to authorize only the particular use or uses specified in the decision, and unless other provisions are set forth by the Zoning Board of Appeals in connection with their decision, shall expire if work is not initiated pursuant thereto within one (1) year, of if said use or uses shall cease for more than one (1) year."

**Storage of Contractor's Equipment requires an additional fee for each required off-street parking space.

*** Accessory Apartment applications will also require an additional fee for filing the legal instrument with Westchester County.

AFFIDAVIT OF OWNERSHIP

State of New York, being duly sworn, deposes
County of

and says that he resides at in the Town of
in the County of in the State of and that
he is the owner in fee of all that certain lot, piece or parcel of land situated, lying and being in the
Town of Lewisboro, N.Y., aforesaid and known and designated on the Tax Map as Lot Number
..... in Block on Sheet and that he hereby authorizes
..... to make the annexed application in his behalf
and that the statements of fact contained in said application including the statements contained in all
of the exhibits transmitted herewith are true.

Please see attached letter of authorization

Sworn to before me, this

day of

.....
(sign here)

(over)

LAW OFFICES OF
SNYDER & SNYDER, LLP

94 WHITE PLAINS ROAD
TARRYTOWN, NEW YORK 10591

(914) 333-0700

FAX (914) 333-0743

WRITER'S E-MAIL ADDRESS

Lsnyder@snyderlaw.net

NEW YORK OFFICE
445 PARK AVENUE, 9TH FLOOR
NEW YORK, NEW YORK 10022
(212) 749-1448
FAX (212) 932-2693

LESLIE J. SNYDER
ROBERT D. GAUDIOSO

DAVID L. SNYDER
(1956-2012)

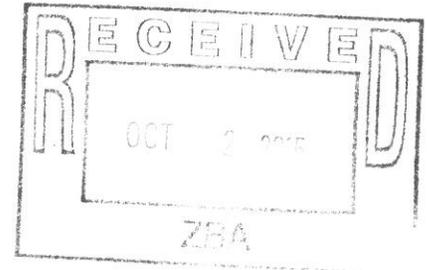
NEW JERSEY OFFICE
ONE GATEWAY CENTER, SUITE 2600
NEWARK, NEW JERSEY 07102
(973) 824-9772
FAX (973) 824-9774

REPLY TO:

Tarrytown Office

October 2, 2015

Hon. Chairman Price and Members of the Zoning Board
Town of Lewisboro
20 North Salem Road
Cross River, New York 10590



RE: Antenna Work on the Existing Tower located at
Route 35, Lewisboro, New York

Dear Hon. Chairman Price and Members of the Zoning Board:

We represent New York SMSA Limited Partnership d/b/a Verizon Wireless ("Verizon Wireless") in connection with its request to perform certain antenna work ("Antenna Work") on the existing tower ("Tower"). The Antenna Work consists of the replacement of Verizon Wireless' existing antennas as well as the collocation of additional antennas, at a height which is below the height of existing antennas on the Tower. The Antenna Work is necessary for Verizon Wireless to be able to provide enhanced voice and data services to the area, allowing for high speed wireless data transmission. On September 29, 2015, the Town of Lewisboro Planning Board issued a favorable recommendation to this Honorable Board with respect to a height variance for the proposed Antenna Work.

As detailed on the plans, Verizon Wireless' proposed replacement and additional antennas are to be located on the Tower at a maximum height of 138'-3", below the height of existing antennas on the Tower which are in excess of 150'. Section 220-41.1.E(1) of the Zoning Code of the Town of Lewisboro ("Code") indicates that the maximum height of an antenna tower is 120'. Therefore, Verizon Wireless requires a variance from this Honorable Board in connection with the height of its antennas, despite those antennas not being the tallest point on the tower.

Please also note that on November 28, 2012, this Honorable Board granted an identical variance as the one requested (see 27-12-BZ, Resolution executed 1/30/2013), but such variance required the work to commence within one year. Since said work did not so commence, Verizon Wireless respectfully requests the foregoing variance be reinstated, permitting Verizon Wireless to install antennas at 138'-3" on the Tower.

In furtherance of the foregoing, I have enclosed a check in the amount \$252, representing the required Zoning Board of Appeals application fee and ten (10) copies of the following materials:

1. Application to The Zoning Board of Appeals;
2. Signed and sealed plans prepared by Structural Consulting Services, P.C., depicting the proposed work;
3. EAF¹; and
4. Memorandum In Support of Application.

Please also note that Section 220-41.1.C(3) of the Town of Lewisboro's Zoning Code specifically encourages the collocation of antennas on existing towers like the instant case, and provides in Section 220-41.1.H(2), that applications involving amending an approved communications facility in connection with co-location shall be processed in an expedited manner. Additionally, the Middle Class Tax Relief and Job Creation Act of 2012 ("TRA"), signed by the President on February 22, 2012, contains a provision fostering the deployment of wireless communication facilities. Section 6409 of TRA provides that a local government "may not deny, and shall approve" an application for "collocation of new transmission equipment" or "replacement of transmission equipment" on an existing wireless tower or base station that does not "substantially change the physical dimensions of such tower or base station." On October 17, 2014, the Federal Communications Commission adopted the Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies order ("FCC Order") further implementing Section 6409 of the TRA. Under the FCC Order, municipalities shall approve an "eligible facilities request" within 60 days of receiving all application materials or the request will be deemed granted. *The proposed Facility is an eligible facilities request pursuant to the TRA and FCC Order since it involves the collocation of transmission equipment that does not constitute a "substantial change."* In connection therewith, it is respectfully submitted that Verizon Wireless' variance be granted forthwith.

We thank you for your consideration and respectfully request that this matter be placed on the October 28th agenda. If you have any questions or require any additional documentation, please do not hesitate to contact me or Michael Sheridan of my office.

Respectfully submitted,


Leslie J. Snyder

cc: Verizon Wireless

Z:\SSDATA\WPDATA\SS4\WP\NEWBAN\MJOE ROLLINS\LTE ZONING ANALYSES\SOUTH SALEM (LEWISBORO) 4AWS-PCS\ZBA 2015\ZBA LTR.9.30.15.REV.DOCX

¹ It should be noted that the proposal is a Type II action, thereby deemed not to have any significant environmental effect, since it involves the expansion of a non-residential facility involving less than 4,000 square feet.

ZONING BOARD OF APPEALS
TOWN OF LEWISBORO

-----X

In the matter of the Application of

**NEW YORK SMSA LIMITED PARTNERSHIP
d/b/a VERIZON WIRELESS**

Premises: Route 35
 Town of Lewisboro, New York
 Sheet 40, Block 10263, Lots 1 & 62

-----X

**MEMORANDUM IN SUPPORT NEW YORK SMSA LIMITED PARTNERSHIP d/b/a
VERIZON WIRELESS' APPLICATION FOR CERTAIN ANTENNA WORK**

I. **Introduction**

We represent New York SMSA Limited Partnership d/b/a Verizon Wireless ("Verizon Wireless") in connection with its request to perform certain antenna work ("Antenna Work") on the existing tower ("Tower"). The Antenna Work consists of the replacement of Verizon Wireless' existing antennas as well as the collocation of additional antennas, at a height that is below the height of existing antennas on the Tower. The Antenna Work is necessary for Verizon Wireless' facility ("Facility") to be able to provide enhanced voice and data services to the area allowing for high speed wireless data transmission.

As detailed on the plans, Verizon Wireless' proposed replacement and additional antennas are to be located on the Tower at a maximum height of 138'-3," below the height of existing antennas on the Tower which are in excess of 158'. Section 220-41.1.E(1) of the Zoning Code of the Town of Lewisboro ("Code") indicates that the maximum height of an antenna tower is 120'. Therefore, Verizon Wireless requires a variance from this Honorable Board in connection with the height of its antennas, despite those antennas not being the tallest point on the tower.

Please also note that on November 28, 2012, this Honorable Board granted an identical variance as the one requested (see 27-12-BZ, Resolution executed 1/30/2013 ("Variance 27-12")), but such variance required the work to commence within one year. Since said work did not so commence, Verizon Wireless respectfully requests the foregoing variance be reinstated, permitting Verizon Wireless to install antennas at 138'-3" on the Tower. A copy of the Variance 27-12 is attached hereto as Exhibit 1. Moreover, please note that on September 29, 2015, the Town of Lewisboro Planning Board issued a favorable recommendation to this Honorable Board with respect to the requested height variance for the proposed Antenna Work.

II. Public Utility Status

Verizon Wireless is licensed by the Federal Communications Commission (“FCC”), and is a wireless telecommunication public utility in the State of New York, providing an essential public service. See Cellular One v. Rosenberg, 82 NY2d 364 (1993) (hereinafter referred to as “Rosenberg”); Cellular One v. Meyer, 607 NYS 2d 81 (2nd Dept. 1994); Sprint Spectrum L.P. v. Town of West Seneca, 659 NYS2d 687 (Sup.Ct. Erie County, 1997); Sprint Spectrum L.P. v. Zoning Board of Appeals of the Town of Guilderland, 662 NYS2d 717 (Sup. Ct. Albany County, 1997). In Rosenberg, *supra*, New York’s highest court, held that federally licensed wireless carriers are public utilities in the State of New York, and provide an essential public service. The court found that public utilities, such as Verizon Wireless, are entitled to a relaxed standard in zoning decisions, since the proposed use is necessary for it to render safe and adequate service.

The instant application is filed in furtherance of the goals and objectives established by Congress under the federal Telecommunications Act of 1996. The federal Telecommunications Act of 1996 is “an unusually important legislative enactment,” establishing national public policy in favor of encouraging “*rapid deployment of new telecommunications technologies* (emphasis supplied).” Reno v. ACLU, 521 U.S. 844, 857, 117 S.Ct. 2329, 2337-38, 138 L.Ed.2d 874 (1997). The federal Telecommunications Act of 1996 builds upon the regulatory framework for commercial mobile [radio] services which Congress established in 1993. Indeed, since 1993, it has been the policy of the United States to “foster the growth and development of *mobile services* that, by their nature, *operate without regard to state lines* as an integral part of the *national telecommunications infrastructure*.” H.R. Rep. No. 103-111, 103d Cong., 1st Sess. 260 (1993) (emphasis added). As such, Verizon Wireless is licensed to provide wireless telephone service to subscribers throughout New York, including the Town.

In fact, in 1999, Congress expanded further upon this policy by enacting the Wireless Communications and Public Safety Act of 1999, Pub.L. 106-81, 113 Stat. 1286 (the “911 Act”). The “911 Act,” empowered the FCC to develop regulations to make wireless 911 services available to all Americans. The express purpose of the Act, as articulated by Congress, was “*to encourage and facilitate the prompt deployment throughout the United States of seamless, ubiquitous, and reliable end-to-end infrastructure for communications, including wireless communications, to meet the Nation's public safety and other communications needs*.” (emphasis added).

Please note that on November 18, 2009, the FCC issued a Declaratory Ruling regarding timely review of applications for siting of wireless facilities, WT Docket NO. 08-165 (the “Shot Clock Order”).¹ The Shot Clock Order finds that a “reasonable period of time” for a local government to act on this type of application, a collocation application, is presumptively 90 days.² According to the Shot Clock Order, if the Town fails to act within

1. A copy of the Rule is available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-09-99A1.pdf.

2. Rule, ¶71

such reasonable period of time, the applicant may commence an action in court for “failure to act” under Section 332(c)(7)(B)(v) of the Federal Communications Act. Furthermore, under 220-41.1.H(2) of the Town’s Zoning Code, a collocation, like the one proposed here, which is on an approved communication tower, “shall be processed in an expedited manner.”

Please also note that Section 220-41.1.C(3) of the Town of Lewisboro’s Zoning Code specifically encourages the collocation of antennas on existing towers like the instant case, and provides in Section 220-41.1.H(2), that applications involving amending an approved communications facility in connection with co-location shall be processed in an expedited manner. Additionally, the Middle Class Tax Relief and Job Creation Act of 2012 (“TRA”), signed by the President on February 22, 2012, contains a provision fostering the deployment of wireless communication facilities. Section 6409 of TRA provides that a local government “may not deny, and shall approve” an application for “collocation of new transmission equipment” or “replacement of transmission equipment” on an existing wireless tower or base station that does not “substantially change the physical dimensions of such tower or base station.” On October 17, 2014, the Federal Communications Commission adopted the Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies order (“FCC Order”) further implementing Section 6409 of the TRA. Under the FCC Order, municipalities shall approve an “eligible facilities request” within 60 days of receiving all application materials or the request will be deemed granted. *The proposed Facility is an eligible facilities request pursuant to the TRA and FCC Order since it involves the collocation of transmission equipment that does not constitute a “substantial change.”* In connection therewith, it is respectfully submitted that Verizon Wireless’ application be reviewed and approved in an expedited manner.

III. Verizon Wireless’ Antenna Work Meets the Standards for an Area Variance

It is respectfully submitted that the Zoning Board reinstate Variance 27-12, an area variance providing that Verizon Wireless can locate its antennas at a height of 138’-3” on the Tower. The standard for an area variance is set forth in Section 267-b(3) of New York State Town Law.³ Section 267-b of Town Law provides that in making its determination, the zoning board shall take into consideration the benefit to the applicant, if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood by such grant. In making such determination, the statute directs the Board to consider five enumerated factors: (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance; (3) whether the variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical conditions in the neighborhood; and (5) whether the alleged difficulty was self-created.

However, where the board is considering a public utility application such as in the instant case, there is a relaxed standard for a variance. See Rosenberg, supra, where the New York Court

³ Pursuant to Section 274-b of the New York State Town Law, the Zoning Board of Appeals has the authority to issue area variances in connection with the dimensional requirements of a special use permit. See Real Holding Corp. v. Lehigh, 2 N.Y.3d 297 (2004).

of Appeals found that the siting of a federally licensed wireless carrier, such as the Verizon Wireless, is entitled to the public utility variance exception, whereby an applicant is granted a variance if the proposed use is necessary for the applicant to provide safe and adequate service. The Court further found that “where the intrusion or burden on the community is minimal, the showing required by the utility shall be correspondingly reduced.” *Id.* at 372. The Court also made clear that a zoning board may not exclude a utility from a community where the utility has shown a need for its facilities. *Id.*

It is respectfully submitted that, as this board found previously, all of the requirements for the issuance of the area variance have been met by Verizon Wireless in the instant case. Verizon Wireless is a federally licensed wireless carrier, and a public utility for zoning purposes under New York State jurisprudence. Moreover, the following factors are offered for consideration in accordance with Section 267-b of Town Law:

1. Character of the Neighborhood: Due to the placement of Verizon Wireless’ antennas at 138’-3”, approximately 20’ below the height of existing antennas on the Tower, the proposed Antenna Work will not affect the character of the neighborhood, nor be a detriment to nearby properties for a number of reasons. **First**, Verizon Wireless’ proposed Antenna Work is below the height of existing antennas on the Tower. The Tower is situated in a densely wooded property used for non-residential purposes and thus, the Antenna Work on said Tower will not have a significant impact on the surrounding area. **Second**, with the proposed Antenna Work, the Facility will continue to comply with all applicable laws and standards, and will not adversely affect the public health, safety or the general welfare. With respect to health and safety, the Facility, taking into account all antennas on the Tower, will remain in complete compliance with all applicable FCC standards. See RF Compliance Report, prepared by Pinnacle Telecom Group (“RF Report”), attached hereto as Exhibit 2. **Third**, with the proposed Antenna Work, the Facility will not cause any harmful interference with the frequencies of any radio, television, telephone or other uses. **Fourth**, with the proposed Antenna Work, the Facility will be better able to serve the neighborhood and benefit the entire community by offering an enhanced wireless telecommunications alternative, which is particularly well suited for responding to accidents, natural disasters, and for reporting medical emergencies and other dangers such as potential criminal activity. **Fifth**, the proposal will have no impact on pedestrian or vehicular traffic, since the Facility will remain unmanned requiring infrequent maintenance visits of approximately once per month. **Sixth**, with the proposed Antenna Work, the Facility will not produce any smoke, gas, odor, heat, dust, noise above ambient levels, fumes, vibrations or flashing lights. The Facility will not generate solid waste, waste water or sewage, will not require water supply or waste disposal, and will not attract insects, vermin or other vectors. Therefore, there will be no detrimental effect to the physical environment or the neighborhood in connection with the Antenna Work.

2. Benefit Achieved by Other Method: There are no methods for Verizon Wireless to pursue, other than a variance. In order for Verizon Wireless to utilize its new technology and utilize the Tower in a manner necessary to allow Verizon Wireless to provide its customers with enhanced data services, Verizon Wireless needs to perform the Antenna Work, with the antennas at the height requested. See Affidavit from Ali Aljibori, Verizon Wireless RF engineer (“RF Affidavit”) attached hereto as Exhibit 3.

3. Nature of the Variance: Moreover, the variance requested is not substantial in light of the nature of the area and the minimal adverse effect which the variance would have on adjoining properties. See Terry Rice, McKinney's Practice Commentaries, Town Law §267-b (McKinney's 1997-98 Supp.). As noted above, the Facility is currently located in a densely wooded area, and Verizon Wireless' Antenna Work is to be located substantially below the height of existing antennas on the Tower so that the Antenna Work will have no significant adverse effect. Moreover, the requested height is the minimum height necessary for Verizon Wireless to provide its service and not interfere with the other existing antennas on the Tower. See RF Affidavit, attached hereto as Exhibit 3.

4. Effect on Environment or Neighborhood: The Antenna Work will have no adverse effect on the environment and will be in complete compliance with all applicable health and safety regulations. See RF Report attached hereto as Exhibit 2. Moreover, the structural certification, prepared by Structural Consulting Services, P.C. ("SCS") and attached hereto as Exhibit 4, confirms that the Tower will be able to support Verizon Wireless' Antenna Work.

5. Difficulty Not Self Created: In addition, the proposed variance is clearly not self-created. Verizon Wireless' Antenna Work is proposed at a height which will enable the antennas to provide the necessary service and not interfere with the other existing antennas on the Tower. See RF Affidavit, attached hereto as Exhibit 3.

Conclusion

By reinstating Variance 27-12, the Zoning Board will enable Verizon Wireless to improve its wireless service to the area, affording Verizon Wireless users in the area the ability to have enhanced high speed data transmission. Any potential impact on the community created by the requested variance has been shown to be minimal and of no significant adverse effect.

WHEREFORE, for all of the foregoing reasons, Verizon Wireless respectfully prays that this Honorable Board issue a negative declaration¹ pursuant to the New York State Environmental Quality Review Act and grant the requested area variance.

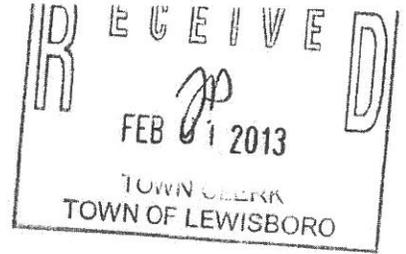
Dated: September 29, 2015
Tarrytown, New York

Respectfully submitted,
Leslie J. Snyder
SNYDER & SNYDER, LLP
94 White Plains Road
Tarrytown, NY 10591

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¹ It should be noted that the proposal is a Type II action, thereby deemed not to have any significant environmental effect, since it involves the expansion of a non-residential facility involving less than 4,000 square feet.

EXHIBIT 1
Variance 27-12



**ZONING BOARD OF APPEALS
TOWN OF LEWISBORO**

In the matter of:

CAL. NO. 27-12-BZ

Application of New York SMSA Limited Partnership d/b/a Verizon Wireless, 4 Centerock Road, West Nyack, NY 10994 [Owner of Record: American Tower, 10 Presidential Way, Woburn, MA] for the proposed replacement and additional antennas that are to be located on the Tower at a maximum height of 138'3", below the height of existing antennas on the Tower which are in excess of 158'. Although §220-41.1E (1) of the Zoning Code of the Town of Lewisboro indicates that the maximum height of an antenna tower is 120', Applicant requests that the Zoning Board of Appeals find that a variance is not required since Applicant's antennas are below existing antennas on the Tower, or in the alternative, Applicant requests the Zoning Board of Appeals grant a height variance of 18'3" for its antennas.

The Public Hearings were held on Wednesday, October 24th and November 28th 2012.

Board Members: Present: Geoffrey Egginton, Chairman
Carolyn Mandelker
Thomas Casper 10/24/12
Robin Price, Jr.
Jason Krellenstein

Absent: Thomas Casper 11/28/12

The Property: The property is located on the south side of Route 35, designated on the Tax Map as Sheet 40, Block 10263, Lots 1 and 62 in an R-4A, Four-Acre Residential District.

Appearances: For Applicant: Michael Sheridan, Esq.

In Support: None

In Opposition: None

References: Minutes of the Public Hearings; Planning Board Referral, dated 8/21/12; Cover Letter from Snyder & Snyder, LLP, dated 9/20/12; Planning Board Memo, dated 9/26/12; Short Environmental Assessment Form, dated 9/18/12; Memorandum in Support NY SMSA Limited Partnership d/b/a Verizon Wireless, undated; Location Plan, Compound Plan, Project Information, Topographic Map and Notes, dated 4/23/12;

Action of the Board: THE APPLICATION IS APPROVED.

The Vote: To Approve: November 28th 2012

To Approve: Mandelker, Krellenstein, Price and Egginton

To Deny: None

Absent: Casper

Abstain: None

**NATURE OF APPLICATION
AND**

SUMMARY OF EVIDENCE PRESENTED

Application for the proposed replacement and additional antennas that are to be located on the Tower at a maximum height of 138'3", below the height of existing antennas on the Tower which are in excess of 158'. Although §220-41.1E (1) of the Zoning Code of the Town of Lewisboro indicates that the maximum height of an antenna tower is 120', Applicant requests that the Zoning Board of Appeals find that a variance is not required since Applicant's antennas are below existing antennas on the Tower, or in the alternative, Applicant requests the Zoning Board of Appeals grant a height variance of 18'3" for its antennas.

Mr. Michael Sheridan, Esq. was present at the October 24th meeting. He stated that Verizon wireless will be replacing existing antennas and add additional antennas on the existing tower. Mr. Sheridan stated that the tower is located in a densely wooded area. He stated that they are requesting that the Zoning Board of Appeals find that a variance is not required since Verizon's antennas are below existing antennas on the Tower.

Mr. Krellenstein asked if the applicant received a variance for the original antennas.

Mr. Sheridan stated that there is no indication that the original antennas received a variance.

Mr. Casper stated that the tower is old.

Mr. Sheridan stated that probably from the 1980's or 1990's.

Ms. Posadas stated that there is no indication in the Town records that there was a variance for the Verizon equipment to be placed on the tower.

Mr. Casper asked if the Verizon equipment predates the Ordinance with the height limitation of 120'.

Ms. Posadas stated that §220-41.1E (1) changed to 120' in 2008.

Mr. Casper asked if the applicant meets the fall zone limitations.

Chairman Egginton stated that the new Verizon antennas will be 18'3" taller than what the Ordinance allows.

Mr. Casper asked if the antennas are at 158'.

Mr. Sheridan responded that the applicant's antennas are existing at 158'.

Mr. Krellenstein stated that he does not want to vote on the application tonight. He stated that he would like to further review the Middle Class Tax Relief and Jobs Creation Act of 2012.

Mr. Casper stated that he would like Mr. Mole to opine.

Mr. Price stated that regarding other cell towers in town, the carriers do not apply for a variance, but they do appear before the Planning Board for approval.

Mr. Sheridan asked that the ZBA seek input from the Building Inspector.

Chairman Egginton stated that the ZBA would be seeking input from the Town Attorney.

Mr. Sheridan asked that the ZBA seek the Town Attorney's approval this week, so that the application can proceed before the Planning Board.

Mr. Krellenstein stated that that would be unusual in that the Town Attorney is not the sixth member of the ZBA and the ZBA is not subject to his approval but rather his advice. He stated that he understands the dilemma but he wants to think about it before he makes his decision. Mr. Krellenstein stated that he is not comfortable voting on the application tonight.

Chairman Egginton stated that Mr. Krellenstein reflects his opinion as well but they have to pursue their due diligence.

FINDINGS AND CONCLUSIONS

Mr. Michael Sheridan, Esq. was present at the November 28th meeting.

Chairman Egginton stated that they received communication from Town Council to recommend that the applicant proceed through the variance process.

Mr. Krellenstein stated that for the record he does not believe that that is the right response. He stated that he does not think that the applicant needs a variance and the Code does not call for it. Mr. Krellenstein stated that he does not like that every time the applicant wants to tweak the facility with something that is actually lower than the approved height, they would have to return to the ZBA. He stated that it seems wasteful and does not think that the Code requires it and alterations may be considered exempt. Mr. Krellenstein asked if the Board is inclined to approach it that way.

Mr. Sheridan stated that it would be easier.

Mr. Price stated that perhaps the resolution could provide for the necessary maintenance of the antenna provided the height of the tower is not increased.

Mr. Krellenstein and Ms. Mandelker agreed.

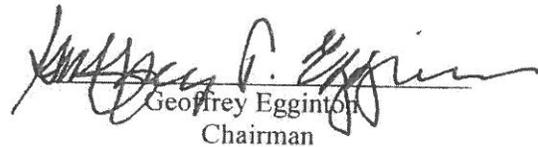
Chairman Egginton moved that the application be approved as presented, the height of the proposed antennas are below the existing height of the tower and the highest antennas, however it is higher than what the Town Code allows at 120':

- That there will be no undesirable change in the character of the nearby property;
- That there is no practical alternative to the requested variance;
- That the area variance is relatively unsubstantial;
- That there will be no adverse environmental impact;
- That the difficulty is not self-created;

Maintenance of the antenna is allowed provided that the height of the tower is not increased.

The motion was seconded by Mr. Price; In favor: Mr. Price, Mr. Krellenstein, Ms. Mandelker and Chairman Egginton. To Deny: None; Abstain: None; Absent: Mr. Casper;

Prior to commencement of any work done under this approval, the Applicant is directed to contact the Building Department to obtain such permits as may be necessary and to pay such fees as may be required.


Geoffrey Egginton
Chairman

Dated in South Salem, New York
This 31st day of January 2013

Expiration: The variance shall be deemed to authorize only the particular use or uses specified in the decision, and unless other provisions are set forth by the Zoning Board of Appeals in connection with its decision, shall expire if work is not initiated pursuant thereto within one (1) year of the date said decision is filed with the Office of the Town Clerk or if said use or uses shall cease for more than one (1) year.

EXHIBIT 2
RF Report



PINNACLE TELECOM GROUP

Professional and Technical Services

ANTENNA SITE FCC RF COMPLIANCE ASSESSMENT AND REPORT

PREPARED FOR

**NEW YORK SMSA LIMITED PARTNERSHIP
d/b/a VERIZON WIRELESS**

**“SOUTH SALEM” SITE
ROUTE 35
SOUTH SALEM, NY**

AUGUST 25, 2015

14 RIDGEDALE AVENUE - SUITE 260 • CEDAR KNOLLS, NJ 07927 • 973-451-1630

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Appendix A. Background on the FCC MPE Limit

INTRODUCTION AND SUMMARY

At the request of New York SMSA Limited Partnership d/b/a Verizon Wireless ("Verizon Wireless"), Pinnacle Telecom Group has performed an independent expert assessment of radiofrequency (RF) levels and related FCC compliance for the modification of an existing wireless base station antenna operation on a lattice tower on Route 35 in South Salem, NY. Verizon Wireless refers to the site as "South Salem" and the antenna modifications are proposed so Verizon Wireless can effectively operate under its FCC-licensed frequencies, including 746 MHz, 850 MHz, 1900 MHz and 2100 MHz.

The FCC requires wireless system operators to perform an assessment of potential human exposure to radiofrequency (RF) fields emanating from all the transmitting antennas at a site whenever antenna operations are added or modified, and to ensure compliance with the Maximum Permissible Exposure (MPE) limit in the FCC regulations. In this case, the tower supports other existing wireless antenna operations by AT&T, Sprint, and T-Mobile – the RF effects of which will be conservatively included in this compliance assessment.

This report describes a mathematical analysis of compliance with the FCC MPE limit for safe continuous exposure of the general public. The RF effects of the antennas are calculated using a standard FCC formula – and the analysis is designed to conservatively overstate the RF levels that actually occur from the antennas. In that way, as long as the results indicate RF levels below the MPE limit, we can have great confidence the compliance requirement is satisfied.

The results of a compliance assessment can be explained in layman's terms by describing the calculated RF levels as simple percentages of the FCC MPE limit. If the reference for that limit is 100 percent, then calculated RF levels higher than 100 percent indicate the MPE limit is exceeded, while calculated RF levels consistently lower than 100 percent serve as a clear and sufficient demonstration of compliance with the MPE limit. We will also describe the overall worst-case calculated result via the "plain-English" equivalent "times-below-the-limit factor".

The result of the FCC RF compliance assessment in this case is as follows:

- The conservatively calculated maximum RF level from the combination of the Verizon Wireless antenna operations, as proposed to be modified, along with the other antenna operations at the site, is 1.5297 percent of the FCC MPE limit – well below the 100-percent reference for compliance. In other words, even with the significant degree of conservatism incorporated in the analysis, the worst-case calculated RF level is still more than 65 times below the FCC limit established as safe for continuous human exposure to the RF emissions from antennas.
- The results of the calculations provide a clear demonstration that the RF levels from the combination of proposed and existing antenna operations at the site satisfy the applicable criteria for controlling potential human exposure to RF fields, and the RF levels will be in clear compliance with the FCC regulations and limit concerning RF safety. Moreover, because of the conservative methodology and incorporated assumptions, RF levels actually caused by the antennas will be even less significant than the calculation results here indicate.

The remainder of this report provides the following:

- relevant technical data on the Verizon Wireless antenna operations, as proposed to be modified, along with data on the other existing antenna operations at the site;
- a description of the applicable FCC mathematical model for assessing MPE compliance, and application of the relevant technical data to that model; and
- the results of the analysis, and the compliance conclusion for the site.

In addition, Appendix A provides background on the FCC MPE limit, along with a list of FCC references on compliance.

NOTE ON NON-INTERFERENCE

In connection with the RF emissions from the proposed antenna operation, we note that Verizon Wireless has been granted by the FCC exclusive geographic rights to its channel frequencies, and is further subject to strict FCC technical standards on parameters such as maximum power and out-of-band emissions, as well as regulations related to non-interference. Therefore, we can provide a clear assurance that the proposed antenna operation will not interfere with public safety communications, or the usual and customary reception of radio, television, or other communications services enjoyed by the nearby residential and non-residential properties, or other existing telecommunications devices. At the same time, however, we would be professionally remiss in omitting a reference to a July 2003 FCC decision – a “Memorandum Opinion and Order” in “WT Docket No. 02-100” that related to interference. That FCC Order concluded that any local ordinance requiring a certification of non-interference related to a wireless antenna siting application represents “impermissible regulation” of RF interference, an area under exclusive FCC jurisdiction and federally-preempted from local regulation.

ANTENNA AND TRANSMISSION DATA

The table below provides the key compliance-related data for the Verizon Wireless antenna operations, as proposed to be modified.

General Data	
Frequency Bands	746 MHz, 850 MHz, 1900 MHz and 2100 MHz
Service Coverage Type	Sectorized
Antenna Type	Directional Panel
Antenna Centerline Height AGL	121 ft. 3 in., 129 ft. 3 in., 135 ft. 3 in.
Antenna Line Loss	Conservatively ignored (assumed 0 dB)
746 MHz Antenna Data	
Antenna Model / Max. Gain	Amphenol BXA-70090/6CF / 14.1 dBi
RF Channels per Sector	2 @ 40 watts

850 MHz Antenna Data	
Antenna Model / Max. Gain	Amphenol BXA-70090/6CF / 14.6 dBi
RF Channels per Sector	8 @ 20 watts
1900 MHz Antenna Data	
Antenna Model / Max. Gain	Amphenol BXA-171085/12CF / 17.6 dBi
RF Channels per Sector	4 @ 16 watts and 4 @ 40 watts
2100 MHz Antenna Data	
Antenna Model / Max. Gain	Amphenol BXA-171085/12CF / 18.0 dBi
RF Channels per Sector	2 @ 40 watts

The antenna vertical-plane radiation pattern is used in the calculations of RF levels at ground level around a site. Figures 1 through 4 that follow show the vertical-plane radiation patterns of the antenna models proposed by Verizon Wireless in each frequency band. Note that in this type of diagram, the antenna is effectively pointed at the three o'clock position (the horizon) and the relative strength of the pattern at different angles is described using decibel units.

Figure 1. Amphenol BXA-70090/4CF Antenna – 746 MHz Vertical-plane Pattern

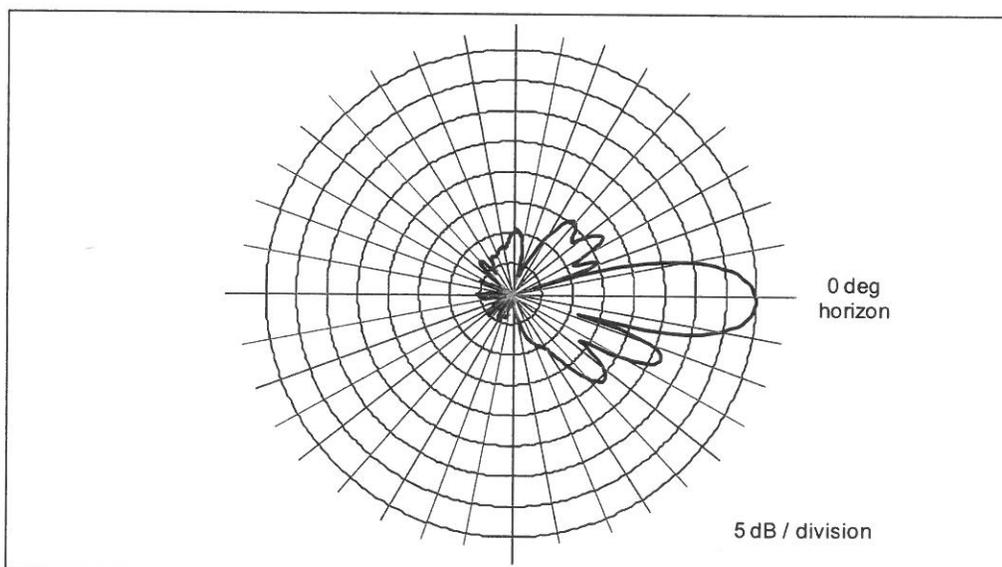


Figure 2. Amphenol BXA-70090/6CF Antenna – 850 MHz Vertical-plane Pattern

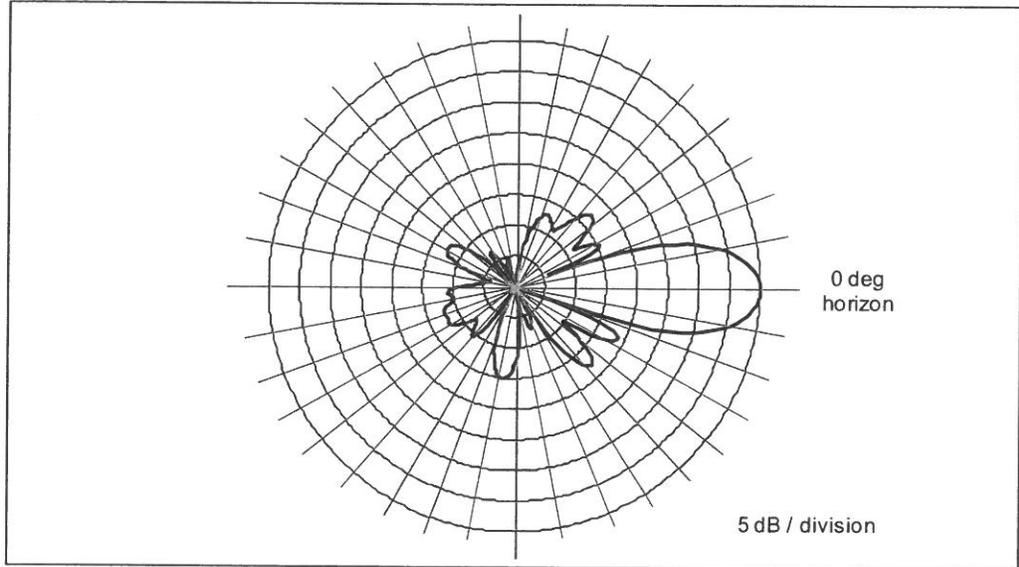


Figure 3. Amphenol BXA-171085/12CF Antenna – 1900 MHz Vertical-plane Pattern

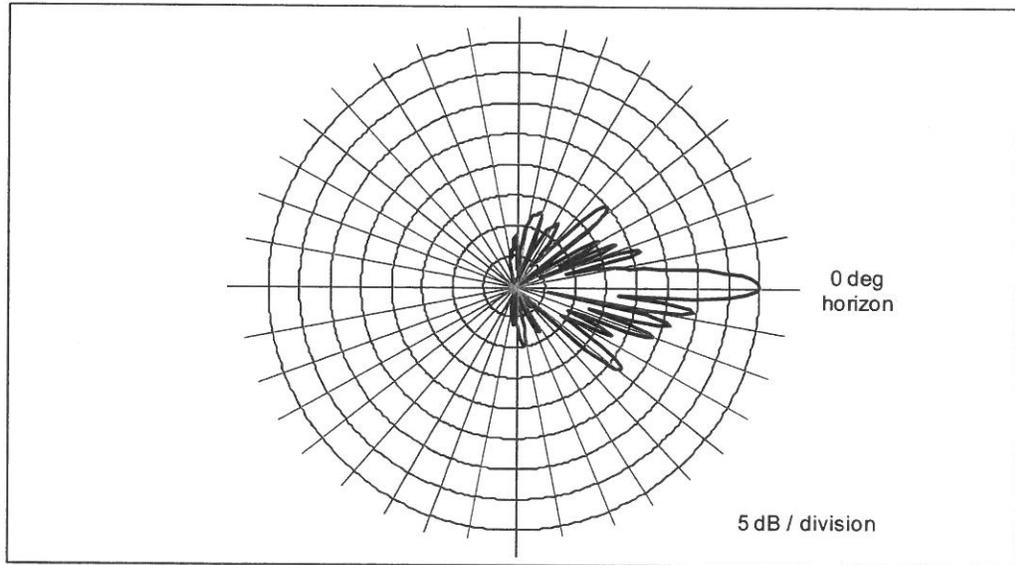
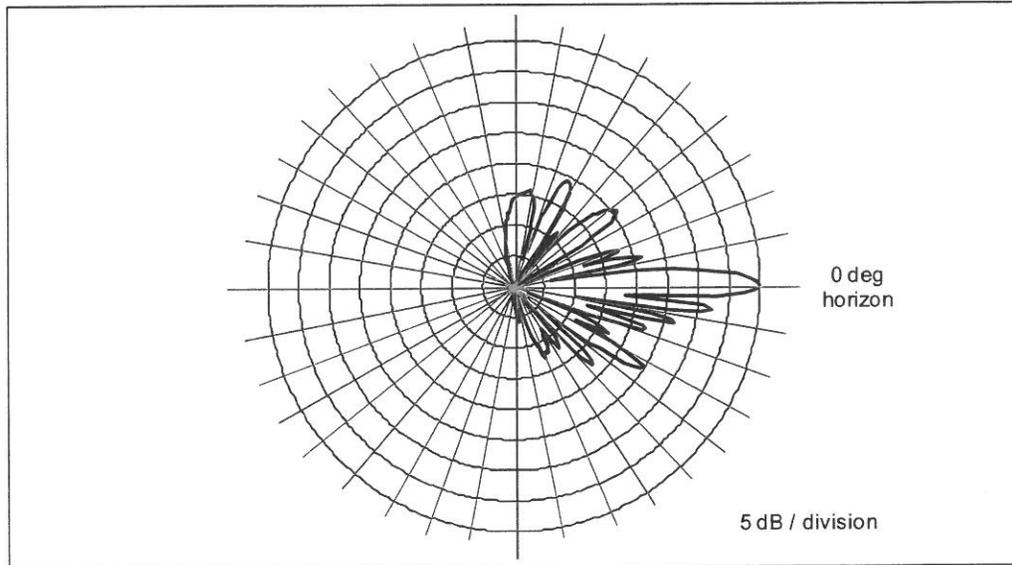


Figure 4. Amphenol BXA-171085/12CF Antenna – 2100 MHz Vertical-plane Pattern



As noted at the outset, there are other wireless antenna operations at the site that we need to include in the compliance assessment, each of which involves directional panel antennas arranged for sectorized wireless service coverage. In the analysis for each of the wireless carriers, we will conservatively assume operation with maximum channel capacity and at maximum transmitter power in each of their respective FCC-licensed wireless frequency bands.

AT&T is licensed to operate in the 700 MHz, 850 MHz and 1900 MHz frequency bands. In the 700 MHz band, AT&T uses as many as four RF channels per antenna sector and a maximum transmitter power of 40 watts. In the 850 MHz band, AT&T uses two 20-watt channels and two 40-watt channels per sector. In the 1900 MHz band, AT&T uses two 60-watt channels and two 80-watt channels per sector.

Sprint (a.k.a., Sprint-Nextel) is licensed to operate in the 860 MHz, 1900 MHz and 2500 MHz frequency bands. In the 860 MHz band, Sprint uses two 40-watt channels per antenna sector. In the 1900 MHz band, Sprint uses two 20-watt

channels and two 40-watt channels per sector. In the 2500 MHz band, Sprint uses four 5-watt channels and four 10-watt channels per sector.

T-Mobile is licensed to operate in the 700 MHz, 1900 MHz and 2100 MHz frequency bands. In the 700 MHz band, T-Mobile uses one 40-watt channel per sector. In the 1900 MHz band, T-Mobile uses four 20-watt channels and one 40-watt channel (for a total of 120 watts) per sector. In the 2100 MHz band, T-Mobile uses one 80-watt channel and two 40-watt channels (for a total of 160 watts) per sector.

Although there may be other antennas at this site, a search of FCC records indicates there are no other licensed transmitting antennas to include in the compliance assessment.

COMPLIANCE ANALYSIS

FCC Office of Engineering and Technology Bulletin 65 (“OET Bulletin 65”) provides guidelines for mathematical models to calculate the RF levels at various points around transmitting antennas. At street-level around an antenna site (in what is called the “far field” of the antennas), the RF levels are directly proportional to the total antenna input power and the relative antenna gain in the downward direction of interest – and the levels are otherwise inversely proportional to the square of the straight-line distance to the antenna. Conservative calculations also assume the potential RF exposure is enhanced by reflection of the RF energy from the ground. Our calculations will assume a 100% “perfect” reflection, the worst-case approach.

The formula for street-level RF compliance calculations for any given wireless antenna operation is as follows:

$$\text{MPE}\% = (100 * \text{TxPower} * 10^{(\text{Gmax}-\text{Vdisc}/10)} * 4) / (\text{MPE} * 4\pi * \text{R}^2)$$

where the individual factors are described on the next page.

MPE%	= RF level, expressed as a percentage of the MPE limit applicable to continuous exposure of the general public
100	= factor to convert the raw result to a percentage
TxPower	= maximum net power into antenna sector, in milliwatts, a function of the number of channels per sector, the transmitter power per channel, and line loss
$10^{(G_{max}-V_{disc}/10)}$	= numeric equivalent of the relative antenna gain in the downward direction of interest, referenced to any applied antenna mechanical downtilt; data on the antenna vertical-plane pattern is taken from manufacturer specifications
4	= factor to account for a 100-percent-efficient ground reflection, and the squared relationship between RF field strength and power density ($2^2 = 4$)
MPE	= FCC general population MPE limit
R	= straight-line distance from the RF source to the point of interest, centimeters

The MPE% calculations are performed out to a distance of 500 feet from the facility to points 6.5 feet (approximately two meters, the FCC-recommended standing height) off the ground, as illustrated in Figure 5, below.

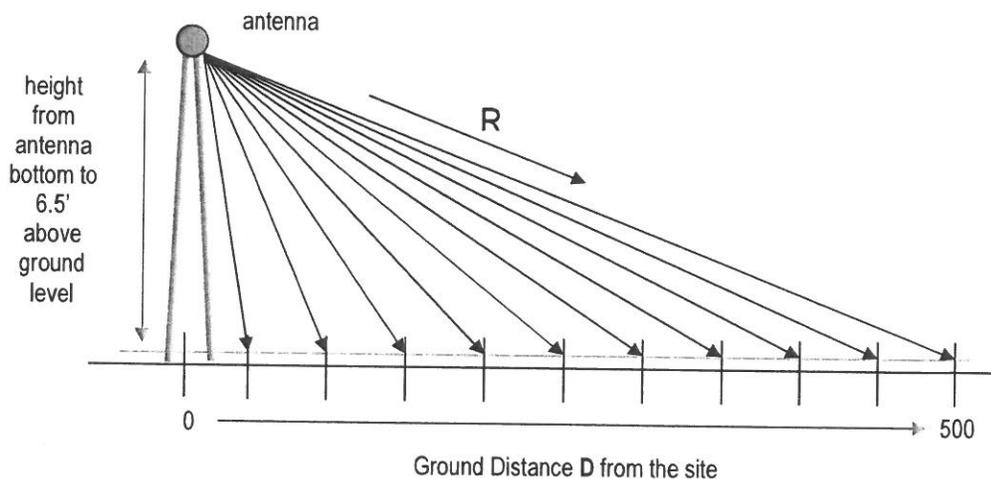


Figure 5. MPE% Calculation Geometry

It is popularly understood that the farther away one is from an antenna, the lower the RF level – which is generally but not universally correct. The results of MPE% calculations fairly close to the site will reflect the variations in the vertical-plane antenna pattern as well as the variation in straight-line distance to the antennas. Therefore, RF levels may actually increase slightly with increasing distance within the range of zero to 500 feet from the site. As the distance approaches 500 feet and beyond, though, the antenna pattern factor becomes less significant, the RF levels become primarily distance-controlled, and as a result the RF levels generally decrease with increasing distance, and are well understood to be in compliance.

FCC compliance for a collocated antenna site is assessed in the following manner. At each distance point along the ground, an MPE% calculation is made for each antenna operation, and the sum of the individual MPE% contributions at each point is compared to 100 percent, the normalized reference for compliance with the MPE limit. We refer to the sum of the individual MPE% contributions as “total MPE%”, and any calculated total MPE% result exceeding 100 percent is, by definition, higher than the FCC limit and represents non-compliance and a need to mitigate the potential exposure. If all results are consistently below 100 percent, on the other hand, that set of results serves as a clear and sufficient demonstration of compliance with the MPE limit.

The following conservative methodology and assumptions are incorporated into the MPE% calculations on a general basis:

1. The antennas are assumed to be operating continuously at maximum power, and at maximum channel capacity. In addition, the effects of antenna line loss are ignored wherever possible.
2. The power-attenuation effects of shadowing or other obstructions to the line-of-sight path from the antenna to the point of interest are ignored.
3. The calculations intentionally minimize the distance factor (R) by assuming a 6’6” human and performing the calculations from the bottom (rather than the centerline) of each operator’s lowest-mounted like antenna, as applicable.

4. The potential RF exposure at ground level is assumed to be 100-percent enhanced (increased) via a “perfect” field reflection from the intervening ground.

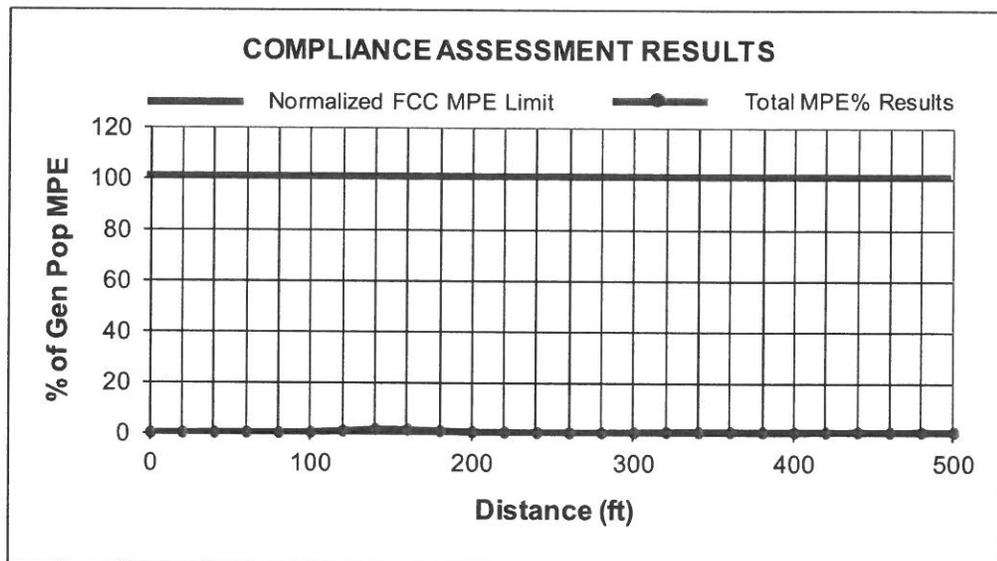
The net result of these assumptions is to significantly overstate the calculated RF exposure levels relative to the levels that will actually occur – and the purpose of this conservatism is to allow very “safe-side” conclusions about compliance.

The table on the following page provides the results of the MPE% calculations for each operator, with the worst-case result highlighted in bold in the last column.

Ground Distance (ft)	Verizon Wireless 746 MHz MPE%	Verizon Wireless 850 MHz MPE%	Verizon Wireless 1900 MHz MPE%	Verizon Wireless 2100 MHz MPE%	AT&T MPE%	Sprint MPE%	T-Mobile MPE%	Total MPE%
0	0.0209	0.0031	0.0149	0.0022	0.0473	0.0084	0.0028	0.0996
20	0.0150	0.0004	0.0331	0.0007	0.0582	0.0106	0.0122	0.1302
40	0.0217	0.0006	0.0001	0.0086	0.1026	0.0323	0.0161	0.1820
60	0.0066	0.0025	0.0197	0.0154	0.1442	0.0062	0.0702	0.2648
80	0.0005	0.0077	0.0045	0.0150	0.0601	0.0734	0.0313	0.1925
100	0.0016	0.0330	0.0015	0.0043	0.0504	0.0965	0.1390	0.3263
120	0.0084	0.0364	0.0200	0.0206	0.3368	0.1182	0.3524	0.8928
140	0.0347	0.0113	0.2206	0.0088	0.8999	0.0599	0.2945	1.5297
160	0.0556	0.0170	0.0615	0.1005	1.0968	0.0541	0.0452	1.4307
180	0.0483	0.0346	0.0077	0.0725	0.6465	0.0472	0.0935	0.9503
200	0.0336	0.0355	0.0158	0.0136	0.3317	0.0366	0.1074	0.5742
220	0.0225	0.0198	0.0452	0.0154	0.1566	0.1188	0.1028	0.4811
240	0.0246	0.0065	0.0057	0.0069	0.1021	0.1324	0.1001	0.3783
260	0.0259	0.0035	0.0095	0.0027	0.0962	0.0952	0.0723	0.3053
280	0.0329	0.0065	0.1003	0.0027	0.1297	0.0683	0.0575	0.3939
300	0.0328	0.0098	0.1120	0.0063	0.1758	0.0741	0.0661	0.4769
320	0.0299	0.0123	0.0850	0.0241	0.3136	0.0771	0.1024	0.6444
340	0.0250	0.0136	0.0325	0.0243	0.3497	0.0688	0.1536	0.6675
360	0.0188	0.0128	0.0060	0.0182	0.3725	0.0583	0.1923	0.6789
380	0.0126	0.0114	0.0285	0.0048	0.3967	0.0455	0.1928	0.6923
400	0.0079	0.0111	0.0713	0.0018	0.3610	0.0413	0.1750	0.6694
420	0.0065	0.0146	0.1009	0.0150	0.4040	0.0492	0.1332	0.7234
440	0.0059	0.0134	0.0924	0.0138	0.4755	0.0913	0.1219	0.8142
460	0.0086	0.0229	0.0724	0.0357	0.4374	0.0837	0.0640	0.7247
480	0.0080	0.0212	0.0668	0.0329	0.5209	0.0771	0.0590	0.7859
500	0.0161	0.0391	0.0270	0.0278	0.4821	0.1344	0.0224	0.7489

As indicated, even with the significant degree of conservatism built into the calculations, the maximum calculated RF level is 1.5297 percent of the FCC MPE limit – well below the 100-percent reference for compliance.

A graph of the overall calculation results, provided below, probably provides a clearer *visual* illustration of the relative compliance of the calculated RF levels. The line representing the calculated total MPE% results barely rises above the graph's zero baseline, and shows an obviously clear and consistent margin to the FCC MPE limit.



COMPLIANCE CONCLUSION

According to the FCC, the MPE limit has been constructed in such a manner that continuous human exposure to RF emissions up to and including 100 percent of the MPE limit is acceptable and safe.

The analysis in this case shows that the maximum calculated RF level from the combination of the Verizon Wireless antenna operations, as proposed to be modified, along with the other existing antenna operations at the site, is 1.5297 percent of the FCC MPE limit. In other words, the worst-case calculated RF level

from the combination of antenna operations is more than 65 times below the limit established as safe for continuous human exposure to the RF emissions from antennas.

The results of the calculations provide a clear demonstration of compliance with the FCC MPE limit. Moreover, because of the conservative calculation methodology and operational assumptions we applied in the analysis, RF levels actually caused by the antennas will be even less significant than the calculation results here indicate.

CERTIFICATION

The undersigned certifies as follows:

1. I have read and fully understand the FCC regulations concerning RF safety and the control of human exposure to RF fields (47 CFR 1.1301 *et seq*).
2. To the best of my knowledge, the statements and information disclosed in this report are true, complete and accurate.
3. The analysis of RF compliance provided herein is consistent with the applicable FCC regulations, additional guidelines issued by the FCC, and industry practice.
4. The results of the analysis indicate that the antenna operations at the subject site will be in compliance with the FCC regulations concerning RF exposure.



Patricia A. Stankovich
Manager – RF Compliance

8/25/15

Date

Appendix A. Background on the FCC MPE Limit

FCC Rules and Regulations

As directed by the Telecommunications Act of 1996, the FCC has established limits for maximum continuous human exposure to RF fields.

The FCC maximum permissible exposure (MPE) limits represent the consensus of federal agencies and independent experts responsible for RF safety matters. Those agencies include the National Council on Radiation Protection and Measurements (NCRP), the Occupational Safety and Health Administration (OSHA), the National Institute for Occupational Safety and Health (NIOSH), the American National Standards Institute (ANSI), the Environmental Protection Agency (EPA), and the Food and Drug Administration (FDA). In formulating its guidelines, the FCC also considered input from the public and technical community – notably the Institute of Electrical and Electronics Engineers (IEEE).

The FCC's RF exposure guidelines are incorporated in Section 1.301 *et seq* of its Rules and Regulations (47 CFR 1.1301-1.1310). Those guidelines specify MPE limits for both occupational and general population exposure.

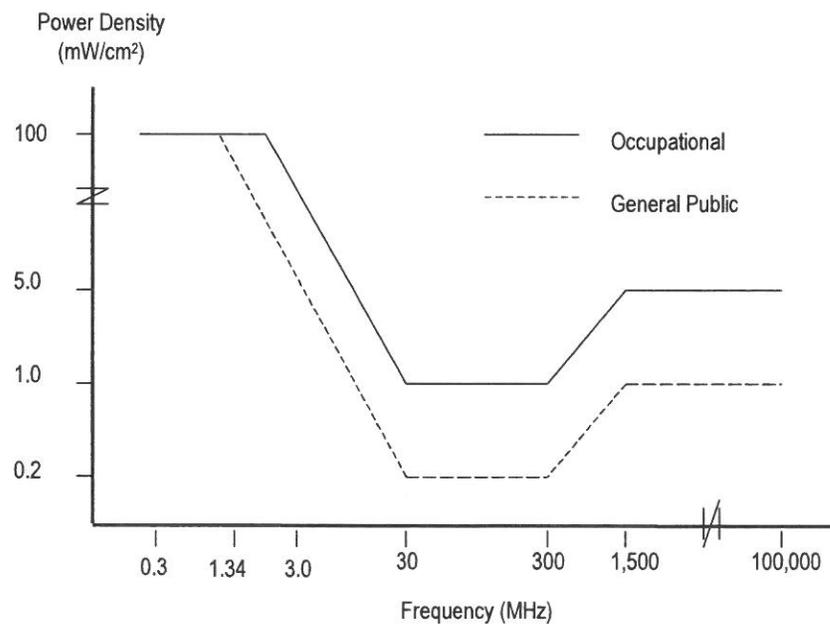
The specified continuous exposure MPE limits are based on known variation of human body susceptibility in different frequency ranges, and a Specific Absorption Rate (SAR) of 4 watts per kilogram, which is universally considered to accurately represent human capacity to dissipate incident RF energy (in the form of heat). The occupational MPE guidelines incorporate a safety factor of 10 or greater with respect to RF levels known to represent a health hazard, and an additional safety factor of five is applied to the MPE limits for general population exposure. Thus, the general population MPE limit has a built-in safety factor of more than 50. The limits were constructed to appropriately protect humans of both sexes and all ages and sizes and under all conditions – and continuous exposure at levels equal to or below the applicable MPE limits is considered to result in no adverse health effects or even health risk.

The reason for two tiers of MPE limits is based on an understanding and assumption that members of the general public are unlikely to have had appropriate RF safety training and may not be aware of the exposures they receive; occupational exposure in controlled environments, on the other hand, is assumed to involve individuals who have had such training, are aware of the exposures, and know how to maintain a safe personal work environment.

The FCC's RF exposure limits are expressed in two equivalent forms, using alternative units of field strength (expressed in volts per meter, or V/m), and power density (expressed in milliwatts per square centimeter, or mW/cm²). The table on the next page lists the FCC limits for both occupational and general population exposures, using the mW/cm² reference, for the different radio frequency ranges.

Frequency Range (F) (MHz)	Occupational Exposure (mW/cm ²)	General Public Exposure (mW/cm ²)
0.3 - 1.34	100	100
1.34 - 3.0	100	180 / F ²
3.0 - 30	900 / F ²	180 / F ²
30 - 300	1.0	0.2
300 - 1,500	F / 300	F / 1500
1,500 - 100,000	5.0	1.0

The diagram below provides a graphical illustration of both the FCC's occupational and general population MPE limits.



Because the FCC's MPE limits are frequency-shaped, the exact MPE limits applicable to the instant situation depend on the frequency range used by the systems of interest.

The most appropriate method of determining RF compliance is to calculate the RF power density attributable to a particular system and compare that to the MPE limit applicable to the operating frequency in question. The result is usually expressed as a percentage of the MPE limit.

For potential exposure from multiple systems, the respective percentages of the MPE limits are added, and the total percentage compared to 100 (percent of the limit). If the result is less than 100, the total exposure is in compliance; if it is more than 100, exposure mitigation measures are necessary to achieve compliance.

Note that the FCC "categorically excludes" certain types of antenna facilities from the routine requirement to specifically (i.e., mathematically) demonstrate compliance with the MPE limit. Among those types of facilities are cellular antennas mounted on any type of tower, when the bottoms of the antennas are more than 10 meters (c. 32.8 feet) above ground. The basis for the categorical exclusion, according to the FCC, is the understanding that because of the low power and the directionality of the antennas, such facilities – individually and collectively – are well understood to have no significant effect on the human environment. As a result, the FCC automatically deems such facilities to be in compliance.

FCC References on Compliance

47 CFR, FCC Rules and Regulations, Part 1 (Practice and Procedure), Section 1.1310 (Radiofrequency radiation exposure limits).

FCC Second Memorandum Opinion and Order and Notice of Proposed Rulemaking (FCC 97-303), *In the Matter of Procedures for Reviewing Requests for Relief From State and Local Regulations Pursuant to Section 332(c)(7)(B)(v) of the Communications Act of 1934 (WT Docket 97-192), Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation (ET Docket 93-62), and Petition for Rulemaking of the Cellular Telecommunications Industry Association Concerning Amendment of the Commission's Rules to Preempt State and Local Regulation of Commercial Mobile Radio Service Transmitting Facilities*, released August 25, 1997.

FCC First Memorandum Opinion and Order, ET Docket 93-62, *In the Matter of Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation*, released December 24, 1996.

FCC Report and Order, ET Docket 93-62, *In the Matter of Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation*, released August 1, 1996.

FCC Office of Engineering and Technology (OET) Bulletin 65, "Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields", Edition 97-01, August 1997.

EXHIBIT 3
RF Affidavit

ZONING BOARD OF APPEALS
TOWN OF LEWISBORO

-----X
In the matter of the Application of

RF Affidavit

NEW YORK SMSA LIMITED PARTNERSHIP
d/b/a VERIZON WIRELESS

Premises: Route 35
 South Salem, Town of Lewisboro, NY
 Block 10263, Lots 1 & 62

-----X

State of New York)
) ss.:
County of Rockland)

Ali Aljibori, does depose and say:

1. I am a radio frequency engineer employed by New York SMSA Limited Partnership d/b/a Verizon Wireless (“Verizon Wireless”). In addition, I am familiar with Verizon Wireless’ existing and proposed installation sites in the Town of Lewisboro (“Town”).

2. I respectfully submit this affidavit in support of the zoning application (“Application”) by Verizon Wireless in connection with a proposed modification to the existing public utility wireless communication installation on an existing lattice tower (“Tower”) located at Route 35, South Salem, Town of Lewisboro, New York (“Site”).

3. Verizon Wireless is licensed by the Federal Communications Commission (“FCC”) to provide wireless communications throughout New York State, including the Town.

4. The existing antennas on the Tower do not allow Verizon Wireless to utilize its latest technology. The proposed antenna work, which includes the replacement and addition of antennas, will allow Verizon Wireless to enhance its wireless data services, enabling users in and around the Site to wirelessly transmit and receive high-speed data.

5. Natural and manmade features, such as buildings, hills, trees, ridge lines and mountains, all effect the way radio signals travel, and can distort or obstruct radio signals. Radio signals will either bounce off, bounce back or be absorbed by these obstructions. These constraints significantly limit the suitability of sites.

6. The proposed antenna work on the Tower requires the antennas to be at a height of 138'-3" in order for Verizon Wireless to provide enhanced data service to its customers and to avoid interference with existing antennas on the Tower.

7. Moreover, by locating the proposed antennas on the existing Tower, it will obviate the need for Verizon Wireless to construct a new telecommunications structure in this area of the Town.

Conclusion

Based on the foregoing, the requested approval should be granted forthwith.

Respectfully submitted,



Ali Aljibori

Signed before me this
2nd day of ~~September~~, 2015
October



Notary Public

Z:\SSDATA\WPDATA\SS4\WPN\NEWBANM\Joe Rollins\LTE Zoning Analysis\South Salem (Lowisboro) 4\AWS-PCSRF Affidavit\ZBA.ms.wpd

ROBERT C. BREYER
NOTARY PUBLIC, STATE OF NEW YORK
NO. 02BR6039207
QUALIFIED IN ROCKLAND COUNTY
COMMISSION EXPIRES 3/31/19

EXHIBIT 4
Structural Certification



**STRUCTURAL
CONSULTING
SERVICES, P.C.**

August 3, 2015

Hon. Chairman Kerner
And Members of the Planning Board
Town of Lewisboro
20 North Salem Road
Cross River, NY 10518

RE: New York SMSA Limited Partnership d/b/a Verizon Wireless
Site: South Salem
NYS Route 35, South Salem, NY 10590
Tax Block: 10263, Tax Lots: 1 & 62
Antenna Modifications

Dear Hon. Chairman Kerner and Members of the Planning Board:

New York SMSA Limited Partnership d/b/a Verizon Wireless is proposing to replace all three (3) of their existing panel antennas and install six (6) additional panel antennas for a net total of nine (9) antennas total on the existing 125' +/- self-supporting lattice at the above referenced site as shown on the construction drawings prepared by our office, drawings C-1 & C-2. The antennas will be attached to new antenna mounts on the top of the tower and nine (9) additional coax cables will be installed as part of the proposed antenna modification.

Our office has reviewed a copy of the structural analysis report prepared by American Tower Engineering Services, Cary, NC, Eng. Number 60530922, dated 12/3/14, for the existing tower under the proposed and existing antenna loadings which deemed the existing tower and foundation to have sufficient capacity. In our professional opinion, the existing tower and foundation can accommodate the proposed antenna modifications. Should you have any questions, please do not hesitate to contact our office.

Sincerely,

Structural Consulting Services, P.C.

James H. Fahey, P.E., S.E.
Principal



cc: Verizon Wireless
Snyder & Snyder
JHF/jhf

67 Federal Road, Brookfield, CT 06804
Tel: 203.740.7578 Fax: 203.775.5670

LETTER OF AUTHORIZATION

SITE NO: 88166

SITE NAME: SOUTH SALEM NY, NY

ADDRESS: Route 35,
South Salem, NY 10590

APN: _____

I, Richard Rossi, VP of Contract Management of American Tower*, owner of the property and tower facility located at the address identified above (the "Tower Facility"), do hereby authorize New York SMSA Limited Partnership d/b/a Verizon Wireless, its successors and assigns, ("VERIZON WIRELESS") and/or its agent, to act as American Tower's non-exclusive agent for the sole purpose of filing and consummating any land-use or building permit application(s) necessary to obtain approval of the applicable jurisdiction for VERIZON WIRELESS' installation of its antennas and related telecommunications equipment on the existing tower and Tower Facility. This installation shall not affect adjoining lands and will occur only within the area leased by American Tower.

We understand that this application may be denied, modified or approved with conditions. The above authorization is limited to the acceptance by VERIZON WIRELESS only of conditions related to VERIZON WIRELESS' installation, provided that any such conditions of approval or modifications will be the sole responsibility of VERIZON WIRELESS.

The above authorization does not permit VERIZON WIRELESS to modify or alter any existing permit(s) and/or zoning or land-use conditions or impose any additional conditions unrelated to VERIZON WIRELESS' installation of telecommunications equipment without the prior written approval of American Tower.

Signature: _____
Print Name: Richard Rossi, VP Contract Management
American Tower*

NOTARY BLOCK

Commonwealth of MASSACHUSETTS
County of Middlesex

This instrument was acknowledged before me by Richard Rossi, VP of Contract Management of American Tower (Property and Tower Facility owner), personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same.

WITNESS my hand and official seal, this 23 day of April, 2012.

NOTARY SEAL

Notary Public _____
My Commission Expires: 7/30/18

* American Tower as used herein is defined as American Towers LLC and any of its affiliates or subsidiaries.



Short Environmental Assessment Form

Part 1 - Project Information

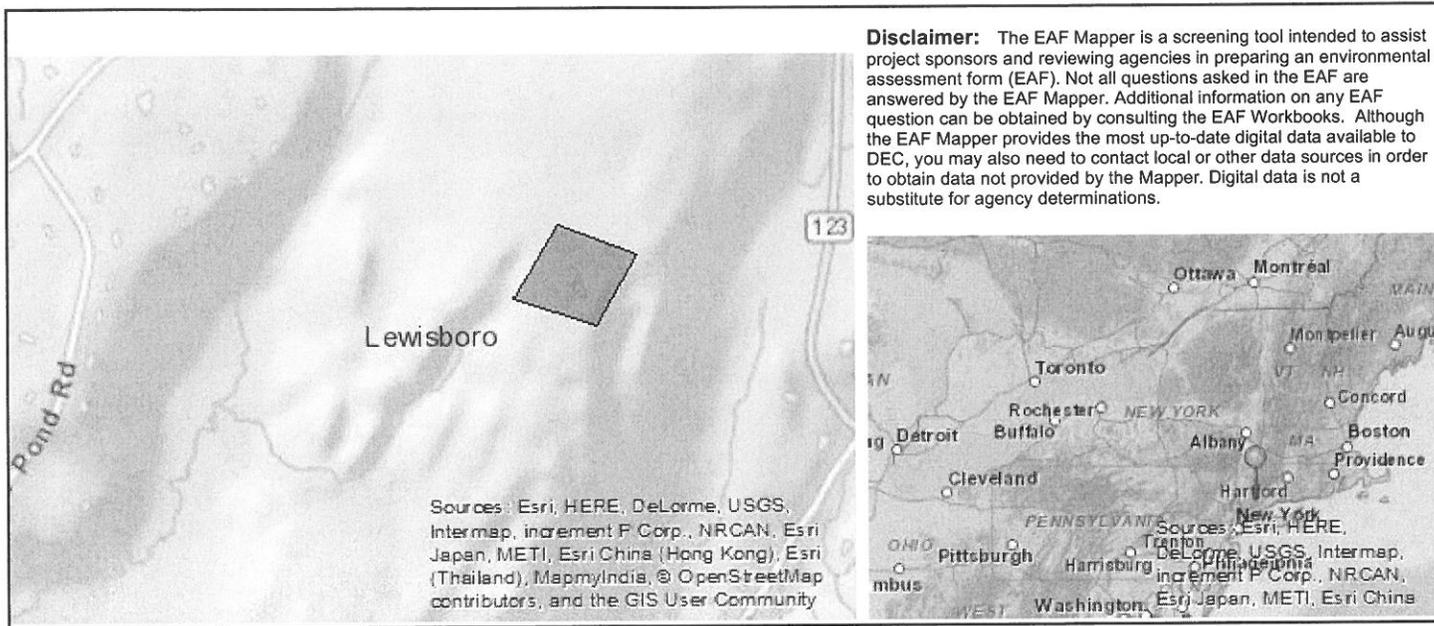
Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information			
New York SMSA Limited Partnership d/b/a Verizon Wireless			
Name of Action or Project: Modification to Verizon Wireless Public Utility Wireless Telecommunications Facility			
Project Location (describe, and attach a location map): NYS Route 35 (Block 10263, Lots 1 & 62)			
Brief Description of Proposed Action: Installation of replacement antennas together with ancillary equipment on the existing tower, and renew the special permit for (5) years.			
Name of Applicant or Sponsor: New York SMSA Limited Partnership d/b/a Verizon Wireless		Telephone: 914-333-0700	
		E-Mail: lsnyder@snyderlaw.net	
Address: c/o Snyder & Snyder LLP, 94 White Plains Road			
City/PO: Tarrytown		State: NY	Zip Code: 10591
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input type="checkbox"/>
			YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval: Special Permit - Planning Board Variance - Zoning Board of Appeals Building Permit - Building Department			NO <input type="checkbox"/>
			YES <input checked="" type="checkbox"/>
3.a. Total acreage of the site of the proposed action?		_____ approx .08 acres	
b. Total acreage to be physically disturbed?		_____ 0 acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		_____ approx .08 acres	
4. Check all land uses that occur on, adjoining and near the proposed action.			
<input type="checkbox"/> Urban <input checked="" type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban) <input checked="" type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input checked="" type="checkbox"/> Other (specify): <u>Wireless Telecommunications Facility</u> <input checked="" type="checkbox"/> Parkland			

<p>18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)?</p> <p>If Yes, explain purpose and size: _____</p> <p>_____</p> <p>_____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility?</p> <p>If Yes, describe: _____</p> <p>_____</p> <p>_____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste?</p> <p>If Yes, describe: _____</p> <p>_____</p> <p>_____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</p>		
<p>Applicant/sponsor name: <u>New York SMSA Limited Partnership d/b/a Verizon Wireless</u></p>		<p>Date: <u>9/24/15</u></p>
<p>Signature: By: <u></u>, as attorney</p>		



Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National Register of Historic Places]	No
Part 1 / Question 12b [Archeological Sites]	Yes
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
Part 1 / Question 15 [Threatened or Endangered Animal]	No
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	No