

Subject to the 150-day FCC Shot Clock Timeframe Set Forth in 47 CFR § 1.6003(c)(1)(iv)

PLANNING BOARD and ZONING BOARD OF APPEALS
TOWN OF NORTH GREENBUSH
RENSSELAER COUNTY, NEW YORK

In the Matter of the Application of

CELLCO PARTNERSHIP d/b/a Verizon Wireless

Premises: Lands n/f Denise L. Guilianelli
4478 NY 43
Town of North Greenbush, Rensselaer County, New York
Section 145., Block 8, Lot 11

STATEMENT OF INTENT and
APPLICATION FOR SITE PLAN and SPECIAL USE PERMIT APPROVAL

I. Introduction

CELLCO PARTNERSHIP d/b/a Verizon Wireless ("Verizon Wireless" or the "Applicant") proposes the construction of a new public utility/personal wireless service facility (a "communications facility") on land owned by Denise L. Guilianelli, located at 4478 NY 43 in the Town of North Greenbush, Rensselaer County, New York (Tax Map Parcel No. 145.-8-11) (Agricultural Residential (AR) zoning district) [TABS 1, 2 and 14]. The proposed facility is a 110' (114' when including 4' lightning rod) monopole, within a 50'x50' fenced compound.

From a regulatory perspective, Verizon Wireless is considered a public utility under New York decisional law (*Cellular Telephone Company v. Rosenberg*, 82 N.Y.2d 364 (1993)) [TAB 3], and a provider of "personal wireless services" under the federal Telecommunications Act of 1996 (the "TCA") [TAB 4]. Verizon Wireless' equipment will be in operation twenty-four (24) hours a day, seven (7) days a week, three hundred sixty-five (365) days a year. Copies of the applicable Verizon Wireless FCC licenses are included herewith [TAB 5].

Pursuant to Section 197-107 of the North Greenbush Town Code (hereinafter, the "Telecommunications Facilities Regulations"), this proposed new communications facility tower is allowable provided the Applicant obtains Site Plan Approval from the Planning Board and Special Use Permit Approval from the Zoning Board of Appeals (*Regulations for Telecommunications Towers*, § 197-107).¹

¹ To the extent variance relief is required from the Town of North Greenbush, this State's highest Court determined in *Rosenberg* that the ordinary variance standard is inapplicable and a cellular telephone company applying for relief need only show that (1) the relief is "required to render safe and adequate service," and (2) there are "compelling reasons, economic or otherwise," for needing the variance. *Cellular Telephone Company v. Rosenberg*, 82 N.Y.2d 364, 372 (1993). Verizon Wireless believes that this project complies in all material respects with the provisions of the Telecommunications Facilities Regulations and the Town of North Greenbush Zoning

II. Purpose of Rensselaer Square Facility

The purpose of the proposed communications facility (internally referred to as the “Rensselaer Square” communications facility) is to expand and improve Verizon Wireless’ advanced 700 MHz 4th Generation Long Term Evolution (4G LTE) services to the southern-central portion of the Town of North Greenbush. More specifically, the Rensselaer Square cell site’s coverage includes 2.1± miles along NY-43 / W Sand Lake Rd, 1.0± miles along Lape Rd, 0.7± miles along Forest Hills Blvd, 1.3± miles along Mammoth Spring Rd, 0.8± miles along Morner Rd (near and including Apple Creek Farm), extending 3+ miles along several local and neighborhood roads (e.g., Salisbury Rd, Brinker Dr, Van Dyke Dr, Van Leuvan Dr., Van Winkle Dr, etc.), and into the homes and businesses in this portion of town. Lastly, the proposed Rensselaer Square facility will provide capacity relief to Verizon’s neighboring Snyders Lake and I-90 Exit 9 facilities which exhibit periods of reduced performance (capacity exhaustion) during network busy times. [TAB 6].

The current level of insufficient 4G/5G coverage in the area originates primarily from Verizon’s existing wireless facilities called “Snyders Lake” (located 1.6± mi. northeast on the 200 ft. tall KGI tower at 10 Kent Place), “Rensselaer” (1.73± mi. west on the 135 ft. tall Crown Castle tower at 531 3rd Ave Ext) and “North Greenbush” (2.2± mi. northwest on the 180 ft. tall Verizon tower at 225 Jordan Rd) in the town of North Greenbush. There are also coverage contributions from Verizon’s “I-90 Exit 9” site (1.7± mi. southwest on the 125 ft. tall American Tower monopole facility at 96 Thompson Hill Rd) in the Town of East Greenbush. Coverage is inadequate and inconsistent from all of these neighboring sites due to distance, topography, and vegetation between them and the targeted improvement area. Heavy network usage along the US-4 corridor also contributes to poor wireless network performance during peak travel and shopping times.

This project is a necessary and critical upgrade of the Verizon Wireless communications network in the Town of North Greenbush. Upon completion, new or improved, state-of-the-art 4G Verizon Wireless communication services will be provided to a significant portion of the Town of North Greenbush [TAB 6, Exhibit 2 in green], in a matter consistent with technological limitations and all applicable land use regulations.

III. Description of Land Use

Verizon Wireless’ proposed communications facility consists of the following general components: a single 110’± monopole tower (±114’ including lightening rod); equipment and related appurtenances on a 11± ft. x 12.5± ft. concrete pad with ice canopy, utility and RF equipment on an H-frame, an emergency backup generator (diesel fueled) on a 4± ft. x 8± ft. concrete pad and all associated RF equipment, improvements and access/utilities [see, **Zoning Site Plan prepared by Tectonic Engineering, included herewith at TAB 14**]. Access will originate from W Sand Lake Road (NY-43), utilizing the existing driveway towards the rear of the property, with a proposed gravel access drive to fully access the tower compound.

Law (Chapter 197 of Town Code), and that no variance or other relief is required.

The proposed communications facility is unmanned and will be visited for routine maintenance purposes approximately 1 - 3 times per year. As such, the project will not have any impact on existing water and sewage services. In addition, neither pedestrian nor vehicular access will be significantly impacted.

IV. Compliance with North Greenbush Telecommunications Towers Regulations

Verizon Wireless' proposed communications facility complies in all material respects with the Town of North Greenbush Telecommunications Towers Regulations:

A. COMPLIANCE WITH REGULATIONS FOR TELECOMMUNICATIONS TOWERS:

1. Site Plan Submission Requirements (Zoning Law Section 197-107(F)): A Site Plan complying with the requirements of the Town of North Greenbush Zoning Law is attached as **TAB 14**. This submission has been prepared by Steven Matthews, P.E., a New York licensed professional engineer with Tectonic Engineering. Based on the submission, it is clear the proposed project meets all of the required factors of a special use permit:
 - a. Special Permit Approval. It is reasonably necessary for the public health or general interest or welfare. Please see **TAB 6, Exhibits 1 and 2**, which demonstrates the current coverage gap and the service that will be provided for the benefit of the public health and general welfare. Please note that the facility will be unmanned and therefore will have no impact on water, fire and/or police services.
 - b. Site Plan showing existing and proposed structures and improvements, including the tower, roads, parking, and landscaping.
 - c. Engineering and Collocation. Please see the Structural and Grounding Design Letter attached as **TAB 11**, which states that the tower is designed to accommodate antennas arrays for three (3) additional carriers, in addition to the proposed Verizon Wireless installation.
 - d. Visual Evaluation. A Visual Resource Evaluation with photosimulations of the proposed facility is attached at **TAB 9**.
 - e. Tower Inventory/Collocation Search. The Site Acquisition Specialist completed a comprehensive investigation of the search area, and it was determined that no existing towers or tall structures existed within the search area that could be used for collocation purposes. See **TAB 6**.
 - f. Long-Range Plans. Please see the coverage plots in **TAB 6**, which show a proposed future collocation at a site called "Lape Road."

- g. FCC Licenses. Applicant's FCC licenses for the Rensselaer County area are provided at **TAB 5**.

B. COMPLIANCE WITH TELECOMMUNICATIONS DESIGN STANDARDS.

1. Setbacks (Telecommunications Law § 197-107(H)(1)): Verizon Wireless' telecommunications tower is required to meet the existing setbacks within the zone and must have a setback of at least 100' where the site adjoins residential or public property. The closest setback of the tower to any property line is proposed at 147 feet, which meets the required setback of at least 100 feet. See **TAB 14**, Sheet SB-1.
2. Visibility and Design Standards:
 - a. General Aesthetics: The exterior finish of the telecommunications tower will consist of galvanized steel which will naturally weather to an unobtrusive gray, thereby minimizing visual impact to the extent practicable. Verizon Wireless' equipment platform will not be significantly visible off site and will blend with natural surroundings to the maximum extent practicable. [**TAB 9**]
 - b. FAA Marking/Lighting: In accordance with Telecommunications Law § 197-107(H)(2), notice is not required to the Federal Aviation Administration and therefore tower marking and/or lighting will not be required under Federal Aviation Administration (FAA) regulations. [**TAB 10**]
 - c. Existing Vegetation/Screening: As noted, the existing host parcel will not be significantly altered or disturbed during the construction process.
 - d. Access and Parking: The off-street parking area provided is adequate to handle expected parking demands. This site is not open to the public and there is adequate parking for maintenance and emergency vehicles.
 - e. Signage: The required emergency contact information and RF safety signage will be posted at the gate to the tower yard and/or affixed to Verizon Wireless' equipment platform. No portion of the telecommunications tower or site shall be used for advertising purposes (Telecommunications Law § 197-107(H)(7)).
 - f. Noise: Attached hereto as **TAB 13** is a noise evaluation prepared by Tectonic Engineering that identifies that the occasional running of the emergency generator will be at noise levels much lower than that

experienced for normal conversation. Accordingly, no adverse impact to surrounding properties is expected.

3. Operational Matters

- a. RF Safety/FCC Licenses: A certification from a New York licensed professional engineer is included at **TAB 7**, to document that Verizon Wireless' proposed transmissions will be: (a) in full compliance with the current FCC RF emissions guidelines (NIER); and (b) categorically excluded from local regulation under applicable federal law.
 - b. Non-Interference: The Applicant has submitted a letter from the Verizon Wireless RF Engineer, certifying that the proposed facility will not interfere with communications devices operating in the surrounding vicinity. [**TAB 8**]
4. Financial Security: The Applicant commits that, as a condition of approval and prior to the issuance of a building permit, it will post with the Town a tower removal bond in the amount to be reasonably set by the Town. A removal estimate is attached as **TAB 12**.
5. Removal (Telecommunications Law § 197-107(J)): The Applicant agrees to remove all structures if facilities become technically obsolete or cease to be used for a period of thirty (30) days. Upon removal, the land will be restored to its previous condition (foundation/footing excepted). [**TAB 12**]

Public Necessity

As noted above and in **TABS 3 and 4**, Verizon Wireless is recognized as a public utility under New York law and a provider of personal wireless services under the federal Telecommunications Act of 1996. This project is a public necessity in that it is required to provide adequate and safe domestic hand-held telephone service (mobile and in-building) to a significant portion of the Town of North Greenbush. This, combined with the federal mandate to expeditiously deploy advanced wireless services across the nation and Verizon Wireless' FCC licenses to provide such services in the Town of North Greenbush, demonstrates that Verizon Wireless' facility is a public necessity. Without the construction of the communications facility proposed, the public would be deprived of an essential means of communication, which, in turn, would jeopardize the safety and welfare of the community and traveling public.

Compelling Reasons for Approval

There are compelling reasons, economic or otherwise, for approving Verizon Wireless' application for a Telecommunications Facility Special Use Permit.

The Applicant's Radio Frequency (RF) Design Engineer has demonstrated that there are significant gaps in Verizon Wireless network coverage (mobile and in-building) in the Town of North Greenbush, and that by locating wireless antennas at a height of 105± ft. AGL Verizon Wireless can provide an adequate and safe level of service to the targeted search area.

As noted above, the Applicant has proposed a facility that will enable Verizon Wireless to provide adequate and safe coverage to a significant portion of the Town of North Greenbush, in accordance with its FCC licenses. In this regard, the proposed communications facility will not give rise to an undue visual impact.

V. Conclusion

Approval of the communications facility proposed will enable Verizon Wireless to provide new or improved advanced 4G wireless telephone services to the southern area of the Town of North Greenbush, within the confines of applicable technological and land use limitations. Such approval will also be in the public interest, in that it will allow Verizon Wireless to comply with its statutory mandate to build out its network and provide local businesses, residents and public service entities with modern, safe and reliable wireless communications services. Based upon the foregoing, Verizon Wireless respectfully submits that this project complies in all material respects with the requirements of the Town's Telecommunications Towers Regulations and/or Zoning Law.

Attached to this Application and Statement of Intent are the following:

1. Full Environmental Assessment Form ("FEAF") prepared by Tectonic Engineering;
2. Redacted copy of the lease agreement with Denise L. Hanley;
3. Documentation of Public Utility Status and Overview of the *Rosenberg* Decision;
4. Overview of Telecommunications Act of 1996;
5. Verizon Wireless' FCC Licenses for the Rensselaer County area;
6. Radio Frequency Justification with proposed coverage plots prepared by Rick Andras, Radio Frequency (RF) Design Engineer with the Verizon Wireless Network Engineering Department, and Site Selection Analysis prepared by Daniel Weinheimer, Tectonic Engineering;
7. Radio-Frequency Safety Report by Circet USA;
8. Non-Interference letter by Verizon Wireless RF Engineer;
9. Visual Resource Evaluation and Photosimulations;
10. FCC TOWAIR Determination Results;
11. Tower Design Letter prepared by Tectonic Engineering;
12. Collocation and Tower Removal Bond Commitment Letter;

13. Noise Analysis and Comparison Letter prepared by Tectonic Engineering; and

14. Site Plan Drawings by Tectonic Engineering.

Kindly place this matter on the agenda for consideration at the next Planning Board meeting of the North Greenbush Planning Board. In the meantime, if you should have any questions or require any additional information, I can be reached at (518) 438-9907.

Thank you for your consideration.

Dated: March 10, 2025

Respectfully submitted,

CELLCO PARTNERSHIP d/b/a Verizon Wireless

A handwritten signature in blue ink, appearing to read "D.C. Brennan".

David C. Brennan, Esq.
Regional Local Counsel