

RESOLUTION #__(2019) - ADOPT FINDINGS, DETERMINATION AND CONDITIONS OF APPROVAL FOR APPLICATION OF BELL ATLANTIC MOBILE SYSTEMS OF ALLENTOWN, d/b/a VERIZON WIRELESS FOR A SPECIAL USE PERMIT AND SITE PLAN APPROVAL FOR A 165-FOOT TELECOMMUNICATIONS TOWER ON PREMISES OF SCOTT PINNEY AT 2150 DRYDEN ROAD, TAX PARCEL 38.-1-3.15

_____ offered the following resolution and asked for its adoption:

- A. RESOLVED, that this Town Board hereby adopt the following Findings, Determination and Conditions of Approval for the application of Verizon Wireless for a special use permit and site plan approval for a 165-foot telecommunications tower on premises identified as 2150 Dryden Road, now tax parcel 38.-1-3.15

TOWN OF DRYDEN TOMPKINS COUNTY STATE OF NEW YORK

In the Matter of the Application of Verizon Wireless

for a Special Use Permit and Site Plan Approval for a
165-foot Telecommunications Tower on Premises Located
at 2150 Dryden Road, Tax Parcel 38.-1-3.15

FINDINGS,
DETERMINATION
AND CONDITIONS OF
APPROVAL

BACKGROUND

Verizon Wireless (herein Verizon) filed an application dated February 2, 2016, for a Telecommunications Special Use Permit (TSUP) and Site Plan Review (SPR) approval to construct a telecommunications tower, equipment platform and site improvements on property of Scott Pinney, 2150 Dryden Road (Town of Dryden Tax Map No. 38.-1-3. 1).

Verizon supplemented its application by a submittal dated April 29, 2016 (Exhibits B through Q.) and July 1, 2016 (revised Full EAF, part 1). Verizon submitted photo-simulations of the proposed tower site taken from three locations on Dryden Road, George Road, the intersection of Yellow Barn Road and Ferguson Road, and Johnson Road.

The application included a Full Environmental Assessments Form and a Visual EAF Addendum. The town board completed Part 2 of the EAF and the Visual EAF Addendum. Town staff reviewed the Verizon submittals and commented on them in correspondence dated June 10, 2016 (Sprout memo).

On behalf of the town, Taitem Engineering, PC reviewed and commented on the Verizon submittals in correspondence dated June 10, 2016. Dende Engineering Structural Consultants also reviewed and commented the Verizon submittals in correspondence dated June 6, 2016.

The Tompkins County Department of Planning pursuant to its role under General Municipal Law 239-1 and 239-m in a letter dated May 18, 2016, commented on the

application, determining that the project would have no negative inter-community or countywide impacts.

During its April 20, 2017 meeting, the Town Board determined the proposed telecommunication facility would have no significant adverse environmental impact (Resolution # 61- Neg SEQR Dec), approved the Site Plan, and granted special permit #4-2017-TSUP (Resolution # 62).

In July 2017, the Town Board granted Sun8 PDC LLC a Special Use Permit for five (5) large-scale solar energy systems at 2150 Dryden Road, conditioned on Town Planning Board approval of a five (5) lot subdivision of the parcel (Resolution#110-2017).

In February 2018, the Town of Dryden Planning Board granted final approval for subdivision (PB Resolution #9-2018). The proposed telecommunications tower would be located on 'Lot 5' now tax parcel ID # 38.-1-3.15.

Conditions of approval of Special Use Permit (Resolution #110-2017) included a provision that trees on Lot 5 may only be removed if and when Special Use Permit #4-2017-TSUP lapses, expires, is revoked, or voluntarily surrendered.

Special Use Permit #4-2017-TSUP lapsed and expired April 2018.

At a Town Board meeting held on June 20, 2019, Counsel for Verizon explained that the lapse of the lapse/expiry of the Special Use Permit was inadvertent and unintended, and that Verizon still wished to proceed with the cell tower location that was previously approved.

Verizon, by cover letter dated May 9, 2019 and updated SUP application dated June 20, 2019, requested that the Town Board renew the SUP approval.

Verizon supplemented its renewal request with copies of the previous approvals, revised project plans, a visual resource evaluation, and a revised Full Environmental Assessment, Part 1 (Exhibits 1-4).

Verizon's 2019 documents primarily reflect business and personnel changes (Upstate Cellular d/b/a Verizon was original applicant. Bell Atlantic Mobile d/b/a Verizon is current applicant) and technological advances allowing Verizon to reduce the number of antennas on the tower, from 12 antennas to 6 antennas.

The Tompkins County Department of Planning pursuant to its role under General Municipal Law 239-1 and 239-m in a letter dated June 12, 2019 commented on the application, determining that the project would have no negative inter-community or county-wide impacts.

The Town Board on _____ approved a fee waiver of the new application fee for this Special Use Permit, and authorized Verizon to submit the fee required for renewals of a Special Use Permit.

DETERMINATION

Based upon the record before it, the town board reaffirms and amends its previous conclusion and determination as follows:

- (a) To the maximum extent possible, the visual impact on neighboring residences and the public have been mitigated. The no tower alternative is not an option and the proposed lattice type tower is the best option to minimize the visual impact. Existing trees intended to provide screening may or may not be removed.
- (b) The applicant provided new visual simulations of the proposed tower.
- (c) The number of antennas on the tower is reduced from twelve (12) to six (6).
- (d) The proposed tower allows for future co-location.
- (e) The proposed tower height is the minimum height (165 feet) necessary to serve the purpose intended.
- (e) The Pinney site is a privately owned, agricultural and wooded area and is neither listed on the Tompkins County Unique Natural Area Inventory nor is it a Critical Environmental Area or near one. The site is partially screened by existing woods and configuration of the access drive.
- (f) There are no co-location opportunities within the area designated by Verizon as the search area, and there is no municipally-owned property which would be suitable or available for a tower site.
- (g) The Pinney site is the only site available within the search area that could provide the radio frequency coverage objectives.
- (h) The search area is within a RA zoning district of the Town and a telecommunications tower is an allowed use subject to the issuance of a special permit and site plan approval.
- (i) The Pinney site allows the tower to meet all the setback requirements and provides the most natural screening.
- (j) Verizon can only place its tower on property that it purchases or leases. When it leases property, it is subject to the requirements of the lessor as to site location.
- (k) Verizon has demonstrated that other sites with a higher priority in the search area are not available.
- (l) The Pinney site is amid an area with a variety of land uses including rural residential, agriculture, and commercial uses.
- (m) Other than those identified by Verizon in the search area, no other sites were identified by the Town or Public, as sites to be evaluated.
- (n) Local law No. 1 of the year 2019 - Telecommunications Tower Siting Law for the Town of Dryden (TTS) has as one of its policy goals the promotion and encouragement of improved telecommunications services.

- (o) Verizon provided propagation studies that supported the need for the type of telecommunications services provided by Verizon in the area. The TTS does not require a showing that a tower is needed.
- (p) The tower does not need to be designed for a possible extension.
- (q) The Town's consultant, Taitem Engineering, PC, provided a review of Verizon's submittals. In summary, Taitem Engineering found that:
 - (i) The proposed project is consistent with the overall policy and goals of the TTS and the design incorporates most of the recommended features at an appropriate site location.
 - (ii) Verizon adequately justified the need for the Pinney site.
- (r) The Town's consultant, Dende Engineering, provided a review of Verizon's submittal. In summary Dende Engineering found that:
 - (i) It is typical to select tower manufacturer after municipal approval.
 - (ii) Once the tower selection is made, as documents become available, they will be reviewed and approved by Dende engineering prior to the issuance of construction permits.
- (s) The Town's Director of Planning, Ray Burger, reviewed the Verizon application, exhibits thereto and the Taitem Engineering and Dende Engineering reviews on the Verizon submittals and exhibits. In summary, Mr. Burger found that the special use permit could be approved if several conditions were attached to the approval. Before construction permits can be issued, there are several requirements to be fulfilled by Verizon which do not pertain to the special permit review or site plan review by the town board (Dende review of June 6, 2016 and Sprout memo of June 10, 2016).

ENVIRONMENTAL REVIEW

The Town Board carefully reviewed the Full Environmental Assessment Form, including Part I as amended by the applicant, the Visual EAF Addendum completed by the applicant and accompanying exhibits and narratives provided by the applicant and Town Planning Department staff, and has reviewed and completed Parts 2 and 3 of the EAF, and 1) determined that the project would not have any significant adverse environmental impacts, 2) determined that an environmental impact statement would not be required, and 3) made a negative determination of environmental significance (Negative Declaration).

APPROVAL AND CONDITIONS

Based upon the application, the exhibits, the comments received from the applicant, the public, the Town Board's consultant, and town staff, and the findings and determination set forth above, the Town Board of the Town of Dryden hereby approves the application for a special use permit and site plan for the proposed Verizon telecommunications tower on the Pinney property subject to the following conditions:

1. The tower and lightning rod shall not exceed 170 feet in height.
2. The tower shall not be lighted other than the two proposed equipment platform lights.

3. The tower and equipment platform and other improvements shall be constructed and sited according to the application as finally amended.
4. Verizon shall take steps to minimize clearing of the property and avoid unnecessary tree cutting.
5. Verizon shall adhere to the Landscape plan submitted 7/29/16 (Site Detail Plan, Sheet C-2) to provide additional vegetative screening.
6. Verizon shall submit an Inspection and Maintenance Plan for approval by the town, which plan complies with the requirements of ANSI/TIA-222-G-2005 Section 14 and shall incorporate the relevant provisions of Annex J thereto. Such submittal shall be in all respects satisfactory to the individual charged with reviewing it. Verizon shall inspect and maintain the tower in accordance with such plan.
7. Following each periodic inspection, a written report of such inspection, signed by a Professional Engineer licensed in New York State, shall be submitted to the Town. Such report shall detail the inspection process, note any maintenance issues, procedures, and timetables to address such issues. The Town must receive the report within 30 days of such periodic inspection.
8. Verizon shall assure compliance with the Migratory Bird Treaty Act (MBTA) and shall furnish a written protocol detailing the steps it will take to assure such compliance. Such submittal shall be in all respects satisfactory to the individual charged with reviewing it.
9. Verizon shall provide and maintain a Tower Removal Bond in the amount of \$20,000 naming the Town as obligee. The bond shall be in such form as is acceptable to the Town's attorney and with a surety qualified to do business in New York State and listed on the United States Treasury's Listing of Approved Sureties (Department Circular 570). The Town Board reserves the right to review annually the amount of the Tower Removal Bond to assure that the amount of the bond is adequate to assure compliance with the obligations of Verizon under Local Law No. 1 (2019) and the conditions of approval of the Special Use Permit and Site Plan.
10. The Town of Dryden Standard Conditions of Approval (August 14, 2008 Version).
11. Prior to the issuance of construction permits Verizon shall submit the items detailed in Dende Engineering's letter of June 6, 2016 to the extent the same have not already been submitted, and such submittals shall be in all respects satisfactory to the individual charged with reviewing them, and that to the extent that Verizon has previously submitted such items to the Town, Verizon shall confirm in writing that such submissions remain accurate and current unless specifically noted otherwise.
12. Applicant will meet legal requirements for the collapse zone and the tower shall be designed to collapse within 85 feet.