

Subject to the FCC Shot Clock of 90 days for Small Wireless Facility  
Using New Structure - 83 Fed Reg 51867 codified at 47 CFR § 1.6003(c)(1)(iii)

**PLANNING BOARD and ZONING BOARD OF APPEALS  
of the TOWN OF SHANDAKEN, ULSTER COUNTY, NEW YORK**

In the Matter of the Application of

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**CELLCO PARTNERSHIP d/b/a Verizon Wireless**

Lands n/f of Big Indian Oliverea Fire Department, Inc.  
a/k/a Big Indian - Oliverea Fire Co., Inc.  
8 Fire House Road  
Town of Shandaken, Ulster County, New York  
Section 12.7, Block 2, Lot 33

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**APPLICATION FOR  
SPECIAL USE PERMIT, SITE PLAN APPROVAL and  
USE AND AREA VARIANCES  
and STATEMENT OF INTENT**

Submitted by:

Verizon Wireless

Brandon Farinaccio, Project Manager

[REDACTED]

[REDACTED]

[REDACTED]

Tectonic Engineering & Surveying Consultants, P.C.  
Steven Matthews, P.E.

36 [REDACTED]

[REDACTED]

[REDACTED]

Pyramid Network Services, LLC  
Douglas Morrison, Site Acquisition

[REDACTED]

[REDACTED]

[REDACTED]

**Please direct all correspondence to:**

Young/Sommer LLC  
Scott P. Olson, Esq.

[REDACTED]

[REDACTED]

[REDACTED]

Dated: April 10, 2026

**Special Permit and/or Site Plan Review Application**

**Applicant Information** (if applicant is not the owner of the property, a notarized Agent Authorization form must be submitted)

**Cellco Partnership d/b/a Verizon Wireless**

**Big Indian Oliverea Fire Department, Inc.**

Name

Name of Owner if other than Applicant

[Redacted]

[Redacted]

Mailing Address

Mailing Address

[Redacted]

[Redacted]

City/State/Zip

City/State/Zip

[Redacted]

[Redacted]

Contact Number

Contact Number

**Property Information**

Section 12.7 Block 2 Lot 33 Zoning District HB Size 0.25+/- acres

Physical address: 8 Fire House Road which is on the south

side of Fire House road/street/lane, in the Hamlet of \_\_\_\_\_,

within 6' feet of State/County Highway # 28 in the Town of

Shandaken.

**Representative Information**

**Tectonic Engineering and Surveying**

**Young Sommer, LLC (Attorneys)**

Surveyor or Engineer (preparing the Site Plan)

Other Representative

[Redacted]

[Redacted]

Mailing Address

Mailing Address

[Redacted]

[Redacted]

City/State/Zip

City/State/Zip

[Redacted]

[Redacted]

Contact Number

Contact Number

**Use**

Current Use Volunteer Fire Department

Proposed Use (attach additional pages if needed)

**Installation and operation of new small wireless facility including 50' Class 2 wooden utility pole and wireless antenna. Please see attached Statement of Intent and supporting materials for further details.**

**STATEMENT**

The undersigned as individual owner(s) or as a qualified officer of the corporate owner of the above described property, hereby apply for approval of the proposed use and/or site plan for the development of the property in accordance with the provisions of the Zoning Law of the Town of Shandaken and authorize entry upon the property for site inspections by Planning/Zoning Officials and their authorized representatives. Further, I do hereby affirm that all fees, permits, and charges applicable under the laws and ordinance of the State of New York and Town of Shandaken (including those required for any environmental impact studies, etc) will be paid; also, any legal or engineering fees required, including consultant fees, if warranted, will be paid by applicant(s). Fees are due and payable to: Town of Shandaken upon submission of the application. Any of the additional fees can be paid prior to the final hearing.

Signature(s) Scott Olson  
Regional Local Council  
for Verizon Wireless

Date April 10, 2026

**Note: Compliance with requirements shall be the sole responsibility of the applicant and/or his representative. Under the New York State SEQR law, it is a requirement to fill out an EAF statement for submission with this application.**

**Attachment – Plot Plan**

Location of lot: Section: 12.7 Block: 2 Lot: 33  
8 Fire House Road, Big Indian, New York

Note: Plot plan must show the configuration of the lot (can be sketch plan) showing all buildings on the Parcel, giving the dimensions of each structure and **must reflect the setbacks of each Structure from the property lines (front/rear/sides.)** Sketch must be drawn to scale with scale indicated (if not providing professional drawings/plat.)

### Site Plan Checklist

If the application includes the need for a Site Plan, the following checklist will simplify the items that will be required by the Planning Board. Please provide written responses to any required information that cannot be clearly reflected on the Site Plan. If you feel that the requirement is not applicable (N/A), you can check the box indicated. The final decision regarding whether information is necessary lies with the Planning Board.

**Done**   **N/A**

- |                                     |                                     |   |
|-------------------------------------|-------------------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 1. Title of drawing, including name and address of applicant and person(s) responsible for preparation of such drawing.   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 2. North arrow, scale and date.   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 3. Accurate boundaries of the property plotted to scale.  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 4. Existing watercourses.   |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | 5. Grading and drainage plan showing existing and proposed contours at an appropriate interval to be specified by the Planning Board at the sketch plan conference, with two foot contour intervals and soils data generally required on that portion of any site proposed for development where general site grades exceed 5% or there may be susceptibility to erosion, flooding, or ponding. |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | 6. Location, proposed use, and height of all buildings.   |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | 7. Location, design, and construction materials of all parking and truck-loading areas, with access and egress drives thereto.  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | 8. Provision(s) for pedestrian access.  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | 9. Location of outdoor storage of equipment and materials, if any.  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 10. Location, design, and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls, and fences.  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | 11. Description of the method of sewage disposal and the location, design, and construction materials of such facilities.   |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | 12. Description of method of securing water supply and the location, design, and construction materials of such facilities.   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 13. Location of fire and other emergency zones, including the location of the nearest water supply for fire emergencies.  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | 14. Location, design, and construction materials of all energy distribution facilities including electrical, gas, and solar energy.   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 15. Location, size, design, and construction materials of all proposed signage.   |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | 16. Location and proposed development of all buffer areas, including indications of existing vegetative cover.  |

- 17. Location and design of outdoor lighting facilities, including data regarding when appropriate, lighting levels both within the site and at the site's boundaries.
- 18. Designation of the amount of building area proposed for retail sales, office use, or similar commercial activity.
- 19. Detailed landscaping plan and planting schedule including the number, size, type, and location of all canopy trees or understory trees, shrubs, and ground covers to be planted.
- 20. Building elevations and sections at a scale sufficient to delineate clearly the massing and the exterior materials, textures, and colors of all buildings and other structures shown on the Site Plan.
- 21. Other elements integral to the proposed development, as considered necessary By the Planning Board, including the identification of and State or County permits Required for the project's execution.

**ALL ISSUES HAVE BEEN READ AND ADDRESSED FOR THE APPLICATION**

Name of Applicant(s) Cellco Partnership d/b/a Verizon Wireless

SBL 12.7-2-33

\*\*\*\*\*SHORT ENVIRONMENTAL ASSESSMENT FORM FOLLOWS\*\*\*\*\*



Supervisor: (845) 688-7165  
 Police: (845) 688-9902  
 Town Clerk: (845) 688-5004  
 Justice Court: (845) 688-5005  
 Assessor: (845) 688-5003  
 Assessor Fax: (845) 688-5708  
 ZBA/ZEO/Planning: (845) 688-5008  
 Highway: (845) 688-9901  
 Fax: (845) 688-2041

*"The Heart of the Park;...Where the Eagle Soars"*

[www.shandaken.us](http://www.shandaken.us)

P.O. Box 134, 7209 Rte. 28, Shandaken, NY 12480

**APPLICATION FOR AREA VARIANCE**

**Applicant Information** (if applicant is not the owner of the property, a notarized Agent Authorization form must be submitted)

Cellco Partnership d/b/a Verizon Wireless

Big Indian Oliverea Fire Department, Inc.

Name

Name of Owner if other than Applicant

[Redacted]

[Redacted]

Mailing Address

Mailing Address

[Redacted]

[Redacted]

City/State/Zip

City/State/Zip

[Redacted]

[Redacted]

Contact Number

Contact Number

[Redacted]

[Redacted]

**Property Information**

Section 12.7 Block 2 Lot 33 Zoning District HB Size \_\_\_\_\_ acres

Physical address: 8 Fire House Road Flood Zone: [ ] Yes [ ] No

Parcel is located on a XX TOWN \_\_\_\_\_ COUNTY \_\_\_\_\_ STATE \_\_\_\_\_ PRIVATE road.

Is the parcel located within 500 feet of any County or State road or property? XX yes \_\_\_\_\_ no

Is the parcel located within 100 feet of any mapped water course? \_\_\_\_\_ yes XX no

Dimensions of Existing Building: N/A (including height) Square Footage: N/A

Dimensions of Proposed Building: 2.83' X 2.83' (including height) Square Footage: 6-8'

Dimensions of Proposed Addition: 12' by 12' (pole 50') (including height) Square Footage: 144

Maximum Structure Coverage Allowed: N/A % Variance Percentage Requested: N/A %

Proposed Setbacks: Front 167' ft. Rear 6' ft. Side 17' ft. Side 89' ft.

Required Setbacks: Front 50' ft. Rear 50' ft. Side 50' ft. Side 50' ft.

Variance Requested: Front N/A ft. Rear 44' ft. Side 33' ft. Side N/A ft.

**CRITERIA FOR THE ISSUANCE OF AN AREA VARIANCE**

In making its determination, the Zoning Board of Appeals 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 of community by such grant. In making such determination the board shall also consider:

Each of the five listed criteria must be answered by the applicant with a narrative.

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance:  
Public utilities such as that proposed are not subject to the standard variance hardship test.  
\_\_\_\_\_  
Instead, they are subject to the public necessity standard of review. Please see attached Statement of Intent.  
\_\_\_\_\_
  
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:  
Public utilities such as that proposed are not subject to the standard variance hardship test.  
\_\_\_\_\_  
Instead, they are subject to the public necessity standard of review. Please see attached Statement of Intent.  
\_\_\_\_\_
  
3. Whether the requested area variance is substantial:  
Public utilities such as that proposed are not subject to the standard variance hardship test.  
\_\_\_\_\_  
Instead, they are subject to the public necessity standard of review. Please see attached Statement of Intent.  
\_\_\_\_\_
  
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district:  
Public utilities such as that proposed are not subject to the standard variance hardship test.  
\_\_\_\_\_  
Instead, they are subject to the public necessity standard of review. Please see attached Statement of Intent.  
\_\_\_\_\_
  
5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance:  
Public utilities such as that proposed are not subject to the standard variance hardship test.  
\_\_\_\_\_  
Instead, they are subject to the public necessity standard of review. Please see attached Statement of Intent.  
\_\_\_\_\_

Any supporting documents should be submitted as a part of the application to the Zoning Board of Appeals.

**Attachment – Plot Plan**

Section: 12.7 Block: 2 Lot: 33

Location of lot: 8 Fire House Road, Big Indian, NY

**Note: The plot plan drawn above must show the configuration of the lot showing ALL structures on the parcel and giving the dimensions of each structure and, most importantly, the setbacks of each structure from the property lines (front, rear, and sides.) The sketch MUST BE DRAWN TO SCALE. Indicate the name and placement of the road(s) for purposes of identification.**

**If you are submitting a professionally drawn sketch plan or preliminary plat, please check  here and submit a minimum of six (6) copies of the drawing.**

At least 10 days prior the Zoning Board of Appeals meeting the following will be submitted to the Zoning Office:

1. Six (6) copies of the application and all supporting documents
2. Six (6) copies of the plot/site plan detailing the proposed project and giving a diagram of the property showing all the existing and proposed buildings/structures, indicating the setback dimensions from each property line, stream, road, right of way, and other buildings/structures on the property.
3. A PDF copy of application, supporting documents, and plot/site plan.
4. Application fee: \$100, plus \$50 for any additional area variances within the same application.

Once your complete application is submitted to the Zoning Department, it will be scheduled for a PRELIMINARY HEARING, during which time the applicant will present their case to the Board of Appeals. The Board will review the application and all supporting documents, and if all requirements have been met, the applicant will be scheduled for a PUBLIC HEARING, usually at the next regular monthly meeting of the Board of Appeals. During the intervening period, the Zoning Office will notify the applicants abutting and adjacent property owners of the pending application and public hearing date. The cost of notifying the abutting and adjacent property owners via certified mail will be the responsibility of the applicant regardless of the Boards decision.

**STATEMENT**

The undersigned as individual owner(s) or as a qualified officer of the corporate owner of the above-described property, hereby apply for approval of the proposed variance in accordance with the provisions of the Zoning Law of the Town of Shandaken and authorize entry upon the property for site inspections by Zoning Officials and their authorized representatives. Fees are due and payable to: Town of Shandaken upon submission of the application.

Signature(s)

**Scott Olson**

Digitally signed by Scott Olson  
DN: cn=Olson, o=Youngman LLC, cn=Scott Olson,  
E=olson@youngman.com  
Reason: I am the author of this document  
Location: your signing location here  
Date: 2026.04.10 10:29:11-0400  
Post-PhantomPDF, Version: 10.1.3

Date April 10, 2026

Regional Local Counsel

For Verizon Wireless

**OFFICE USE ONLY**

Date Recd: \_\_\_\_\_ Recd By: \_\_\_\_\_ Application Fee: \_\_\_\_\_ [ ] paid

File Number: \_\_\_\_\_

Preliminary Hearing: \_\_\_\_\_ Public Hearing: \_\_\_\_\_

Application [ ] approved [ ] denied Date: \_\_\_\_\_

Subject to the FCC Shot Clock of 90 days for Small Wireless Facility  
Using New Structure - 83 Fed Reg 51867 codified at 47 CFR § 1.6003(c)(1)(iii)

**PLANNING BOARD and ZONING BOARD OF APPEALS  
of the TOWN OF SHANDAKEN, ULSTER COUNTY, NEW YORK**

In the Matter of the Application of

---

**CELLCO PARTNERSHIP d/b/a Verizon Wireless**

Premises:      Lands n/f of Big Indian Oliverea Fire Department, Inc.  
                    a/k/a Big Indian - Oliverea Fire Co., Inc.  
                    8 Fire House Road  
                    Town of Shandaken, Ulster County, New York  
                    Section 12.7, Block 2, Lot 33

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**STATEMENT OF INTENT  
APPLICATION FOR SPECIAL USE PERMIT, SITE PLAN APPROVAL and  
USE AND AREA VARIANCES**

**I.      Introduction**

CELLCO PARTNERSHIP d/b/a Verizon Wireless ("Verizon Wireless" or the "Applicant") proposes the construction of an unmanned public utility/personal wireless service facility (a "communications facility") on a portion of lands n/f owned by Big Indian Oliverea Fire Department, Inc. a/k/a Big Indian - Oliverea Fire Co., Inc. located at 8 Fire House Road in the Town of Shandaken, County of Ulster, State of New York (the "premises"). The specific type of facility proposed is referred to as a small wireless facility.

Verizon Wireless is considered a public utility for purposes of zoning under New York decisional law (*Cellular Telephone Company v. Rosenberg*, 82 N.Y.2d 364 (1993)) [EXHIBIT 1], and a provider of "personal wireless services" under the federal Telecommunications Act of 1996 (the "TCA") [EXHIBIT 2]. 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 [EXHIBIT 3].

The proposed communications facility consists of the installation of a 46.7' wooden utility pole on the Fire Department property with a small wireless antenna at the top, for a total height of 50'. The property is located in the HB zoning district. Although Article IXA of the Code concerning telecommunications facilities provides that all such facilities require a special use permit, the District of Use Regulations in Article IX of the Code provides that telecommunications facilities are permitted by special use permit only in the R3 and R5 zoning districts. According to this table, the proposed facility will require a use variance from the Zoning Board of Appeals ("ZBA").

## **II. Purpose of “Big Indian” Communications Facility**

This project is part of a multi-million dollar comprehensive upgrade of the Verizon Wireless network in Ulster County and serves as a suitable platform for future advanced wireless services expansion at the proposed site and deeper into the Town’s communities. This project is part of Verizon Wireless’ recent efforts to resolve significant gaps in service in the Town of Shandaken. In 2024, the Planning Board approved a special use permit for a new communications facility located at 1466 Wittenberg Road on property with a designated tax map parcel # 25.15-2-7 That project, referred to internally as the “Boiceville DT” site, is intended to resolve significant service gaps in the northeastern portion of the Town of Shandaken. That facility is planned for construction in 2026.

The second site proposed for the Town is referred to internally as the “Phoenicia” site. As the Town is aware, Verizon Wireless and the County of Ulster are in the process of examining a potential alternative to the originally proposed location at 5681 Route 8 (Tax Map No. 14.13-3-32).

The purpose of this Project (referred to internally as the “Big Indian” communications facility) is to expand Verizon Wireless services beyond the areas to be served by the Boiceville DT and Phoenicia sites and to local areas surrounding the Fire Department which are currently not adequately served and which will not be served by either of the referenced sites. Verizon Wireless’ RF Justification Report is enclosed as **EXHIBIT 4**, which explains the need for the new facility at this location.

**EXHIBIT 4** also contains RF propagation maps, based on actual network data, that further illustrate the significant gaps in service in the target area that this facility is designed to resolve. The RF Justification Report clearly illustrates that significant gaps in service exist in the target area and that the proposed facility will resolve those gaps.

Enclosed in **EXHIBIT 5** is a Site Selection Analysis prepared by Pyramid Network Services describing the overall site selection process and methodology that was followed to identify the proposed location for the facility. Specifically, the Site Selection Analysis explains why a facility in either the R3 or R5 zoning districts is not feasible.

## **III. Description of Land Use**

Verizon Wireless’ communications facility will consist of the following general components: one (1) small antenna at the top of the Class 2 wooden utility pole mounted at an antenna centerline of 49’ and related equipment located within a 144 sf secured ground compound [see, Site Plans prepared by Tectonic Engineering, included herewith at EXHIBIT 6].

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

#### IV. Compliance with the Shandaken Wireless Telecommunications Regulations

According to §116-62.2(A), the communications facility is a permitted use upon issuance of a special use permit from the Planning Board.

##### A. COMPLIANCE WITH SPECIAL USE PERMIT REQUIREMENTS:

1. **Site Plan Approval:** An application complying with the requirements of the Town of Shandaken wireless telecommunications regulations has been submitted and is supported by the following documentation:

a. **Site Plan:** An overall Site Plan showing the location of all proposed structures and appurtenances on the property, boundaries of the Verizon Wireless site plotted to scale, north arrow, scale and date, and all related fixtures and apparatus (including but not limited to height above grade and fencing) is included at **EXHIBIT 6**. The communications tower is proposed on a municipally owned parcel of land currently used for municipal water storage. The proposed structure is consistent with the general uses typically associated with agricultural zoning districts.

b. **Elevation Details:** A detailed Site Plan showing the location and nature of Verizon Wireless' ground improvements is included at **EXHIBIT 6**. Side elevations showing Verizon Wireless' proposed 46.5± ft. tower and the unmanned equipment platform are also included.

Outdoor storage is limited to the features and improvements ordinarily associated with an unmanned communications facility, as shown in the Site Plan.

c. **Access and Parking:** The 15± ft. wide easement area will be used for the installation of a twelve foot (12') gravel access driveway to provide ingress and egress. Utilities will be installed underground. Parking for 1-3 vehicles is provided for infrequent maintenance visits, and the facility will be unmanned and visited for routine maintenance purposes approximately 1-3 times per month (only as needed). As such, no pedestrian, vehicular access or parking issues exist. Moreover, the project will not be open to the public and, therefore, pedestrian access, traffic circulation, etc. are not applicable.

d. **Signs:** The required emergency contact information and RF Safety signage will be posted on the tower yard access gate and/or Verizon Wireless equipment platform. No other signage is proposed or required.

- e. **Landscaping:** The existing mature vegetation surrounding the tower site will not be significantly altered. Due to the site's separation from surrounding properties and the existing mature vegetation that will surround the tower facility, additional landscaping and/or a buffer strip will not be required to screen the equipment platform or the lower portions of the tower from view.
- f. **SEQRA:** In accordance with applicable provisions of the State Environmental Quality Review Act ("SEQRA"), the Applicant's consultant engineers have prepared the attached Short Environmental Assessment Form and Visual Addendum ("SEAF") provided in **EXHIBIT 7**.
- g. Because the total disturbance will be less than 1 acre, a Stormwater Pollution Prevention Plan is not required to be completed.
- h. The facility will not generate any need for water or sewer disposal.
- i. The proposed access will be adequate for emergency vehicles if necessary.
- j. The proposed facility will not result in any noise or glare relative to neighboring properties. The facility is also consistent with the rural nature of the area in general.
- k. The proposed facility will not interfere with or block light or air from adjoining neighbors.
- l. The facility will not create or cause any ponding, flooding or erosion.
- m. The proposed use is consistent with the general character of the surrounding area. Additionally, Verizon Wireless' RF Engineer has confirmed that the height of the tower is the minimum necessary to remedy the significant service gaps.

**B. COMPLIANCE WITH WIRELESS COMMUNICATIONS PROVISIONS**

**1. Visibility and Design Standards:**

- a. **General Aesthetics:** To minimize potential visual impacts, Verizon Wireless proposes to install a 46.7' Class 2 wooden utility pole and will keep the total height of the structure less than 50'. Verizon Wireless' equipment platform will not be significantly visible off

site and will blend with natural surroundings to the maximum extent practicable.

To assist the Town visualize how the facility will look, Tectonic Engineering has prepared simulations that illustrate the proposed facility from surrounding viewpoints. These simulations are provided in **EXHIBIT 8**.

- b. **Tower Design:** The "tower" structure will be a typical wooden utility pole similar to those located throughout the Town. Because the facility proposed is a small wireless facility and does not involve a typical communications tower, the facility will be designed to accommodate only Verizon Wireless antenna and equipment.
- c. **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.
- d. **Screening:** As noted, the existing landscaping at the host parcel will not be significantly altered or disturbed during the construction process. Due to the site's separation from surrounding properties, additional landscaping is not proposed to screen the equipment platform or the lower portions of the tower from view.
- e. **Security:** A six foot chain link safety fence with green privacy slats will be installed to secure the tower site and protect the tower and Verizon Wireless' telecommunications equipment from unauthorized access. Verizon Wireless' communications equipment will be located inside a secure 9' x 10' fenced compound [**EXHIBIT 6**].
- f. **Noise:** The proposed facility will not generate any appreciable noise during its operation. Accordingly, no adverse impact on surrounding properties is expected.

## 2. Operational Matters

- a. **RF Safety/FCC Licenses:** A certification from a New York licensed professional engineer (Centerline Communications) entitled "Site Compliance Report" is included at **EXHIBIT 9**, 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. Verizon Wireless is a fully licensed wireless carrier and is authorized to do business in New York. Copies of Verizon Wireless' FCC licenses are attached in **EXHIBIT 3**.
  - c. **Routine Maintenance:** The facility will be maintained in a safe manner and in compliance with all applicable conditions of the site plan requirements, unless a waiver or other relief is granted from the Town in writing, as well as all applicable and permissible codes, ordinances and regulations, including any and all applicable Town, County, State and Federal laws, rules and regulations.
3. **Removal:** The Applicant agrees to remove all structures if facilities become technically obsolete or cease to be used. Upon removal, the land will be restored to its previous condition.
  4. Attached as **EXHIBIT 10** is a letter from Tectonic Engineering confirming that the proposed facility will be designed pursuant to the current codes and industry standards.

**V. Use and Area Variance**

As mentioned above, the Use District Table in Article IX of the Code provides that communications facilities are prohibited in the HB zoning district.

The tower regulations also require all new towers to be set back from property lines a distance equal to the height of the tower. Because the tower will not comply with the rear setback requirement, Verizon Wireless seeks to obtain an area variance from the Shandaken ZBA. Specifically, Verizon Wireless seeks a 44' variance from the stated rear yard setback requirement and a 33' variance from the side yard setback requirement.

The Code also requires all new tower to be designed to accommodate a total of two wireless carriers. Because the proposed facility is a small wireless facility, it will be designed for only Verizon Wireless. A variance from this requirement is, therefore, also requested.

The request for variance relief is subject to the long-standing public utility variance standard as discussed in *Cellular Tel. Co. v. Rosenberg*, 82 N.Y.2d 364 (1993).

In *Rosenberg*, the New York Court of Appeals determined that cellular telephone companies are public utilities for zoning purposes. The Court held that proposed cellular telephone installations are subject to the traditional standard afforded to public utilities, rather than the standards generally required for non-public utility uses:

It has long been held that a zoning board may not exclude a utility from a community where the utility has shown a need for its facilities. There can be no question of [the carrier's] need to erect the cell site to eliminate service gaps in its cellular telephone service

area. The proposed cell site will also improve the transmission and reception of existing service. Application of our holding in *Matter of Consolidated Edison* to sitings of cellular telephone companies, such as [the applicant], permits those companies to construct structures necessary for their operation which are prohibited because of existing zoning laws and to provide the desired services to the surrounding community. . . . Moreover, the record supports the conclusion that [the applicant] sustained its burden of proving the requisite public necessity. [The applicant] established that the erection of the cell site would enable it to remedy gaps in its service area that currently prevent it from providing adequate service to its customers in the . . . area.

*Id.* at 372-74 (citing *Consolidated Edison Co. v. Hoffman*, 43 NY2d 598 [1978]).

This special treatment of a public utility stems from the essential nature of its service, and the fact that a public utility transmitting facility must be located in a particular area in order to provide service to such area. For instance, water towers, electric switching stations, water pumping stations and telephone poles must be in particular locations (including within residential districts) in order to provide the utility to a specific area:

[Public] utility services are needed in all districts; the service can be provided only if certain facilities (for example, substations) can be located in commercial and even in residential districts. To exclude such use would result in an impairment of an essential service.

Anderson, *New York Zoning Law Practice*, 3d ed., p. 411 (1984) (hereafter "Anderson"). *See also*, *Cellular Tel. Co. v. Rosenberg*, 82 NY2d 364 [1993]; *Payne v. Taylor*, 178 AD2d 979 [4th Dept 1991].

Accordingly, the law in New York is that a municipality may not prohibit facilities, including towers, from any portion or area in the municipality if location of the facility is determined to be necessary for the transmission of public utility services. In *Rosenberg*, 82 N.Y.2d at 371, the court found that "the construction of an antenna tower... to facilitate the supply of cellular telephone service is a 'public utility building' within the meaning of a zoning ordinance." *See also Long Island Lighting Co. v. Griffin*, 272 AD 551 [2d Dept 1947] (a municipal corporation may not prohibit the expansion of a public utility where such expansion is necessary to the maintenance of essential services).

## **VI. Conclusion**


Approval of the Big Indian communications facility will enable Verizon Wireless to provide an adequate and safe level of hand-held wireless telephone service to the identified area of the Town of Shandaken and surrounding environs, 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 safe and reliable wireless communications services. Based upon the foregoing, Verizon Wireless respectfully submits that

the project complies in all material respects with the site plan review standards of the Town of Shandaken wireless telecommunications regulations, and any potential impact on the community created by this approval may properly be considered to be minimal and of no significant adverse effect.

Thank you for your consideration.

Respectfully submitted,

CELLCO PARTNERSHIP  
d/b/a Verizon Wireless

A handwritten signature in blue ink that reads "Scott Olson". The signature is written in a cursive, flowing style.

Scott P. Olson, Esq.  
Regional Local Counsel

Dated: April 10, 2026