


**STAFF DRAFT-NOVEMBER 2, 2016-NOT APPROVED BY AGENCY  
THIS IS A TWO SIDED DOCUMENT**

 <p><b>NEW YORK</b> STATE OF OPPORTUNITY.</p> <p><b>Adirondack Park Agency</b></p> <p>P.O. Box 99, 1133 NYS Route 86 Ray Brook, New York 12977 Tel: (518) 891-4050 Fax: (518) 891-3938 www.apa.ny.gov</p>	<p align="center">APA Project Permit <b>2014-0226</b></p>
<p>In the Matter of the Application of</p> <p><b>NEW YORK RSA 2 CELLULAR PARTNERSHIP d/b/a VERIZON WIRELESS, EDWARD A. SZLAMCZYNSKI, and BARBARA SZLAMCZYNSKI</b></p> <p>for a permit pursuant to § 809 of the Adirondack Park Agency Act</p>	<p>Date Issued:</p> <p>To the County Clerk: This permit must be recorded on or before _____. Please index this permit in the grantor index under the following names:</p> <ol style="list-style-type: none"><li><b>1. New York RSA 2 Cellular Partnership d/b/a Verizon Wireless</b></li><li><b>2. Edward A. Szlamczynski</b></li><li><b>3. Barbara Szlamczynski</b></li></ol>

**SUMMARY AND AUTHORIZATION**

New York RSA 2 Cellular Partnership d/b/a Verizon Wireless, Edward A. Szlamczynski, and Barbara Szlamczynski are granted a permit, on conditions, authorizing a new telecommunications tower (a major public utility use) in excess of 40 feet in height in an area classified Resource Management by the Official Adirondack Park Land Use and Development Plan Map in the Town of Fine, St. Lawrence County.

This project may not be undertaken, and no transfer deed shall be recorded, until this permit is recorded in the St. Lawrence County Clerk's Office. This permit shall expire unless so recorded on or before \_\_\_\_\_ in the names of all persons listed on the first page hereof and in the names of all owners of record of any portion of the project site on the recordation date.

This project shall not be undertaken or continued unless the project authorized herein is in existence within four years from the date the permit is recorded. The Agency will consider the project in existence when the lease agreement has been finalized, the tower constructed, and the utility lines have been extended to the site.

Nothing contained in this permit shall be construed to satisfy any legal obligations of the permittee to comply with all applicable law or regulation or to obtain any governmental approval or permit from any entity other than the Agency, whether federal, State, regional or local.

This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of other in order to undertake the authorized project or subdivision, nor does it authorize the impairment of any easement, right, title or interest in real or personal property held or vested in any person.

### **AGENCY JURISDICTION**

The project consists of a new structure in excess of 40 feet in height, a major public utility use, and a subdivision by lease in a Resource Management land use area. Therefore, the project is a Class A regional project requiring an Agency permit pursuant to § 810(1)(e)(3), (8) & (16) of the Adirondack Park Agency Act.

### **PROJECT SITE**

The project site is a 55± acre parcel of land located on Blue Mountain Road in the Town of Fine, St. Lawrence County, in an area classified Resource Management on the Adirondack Park Land Use and Development Plan Map. It is identified on Town of Fine Tax Map as Section 202, Block 4 as Parcel 4. The project site is described in a deed from Robert J. Pannuto and Rita G. Pannuto to Edward A. Szlamczynski and Barbara Szlamczynski dated May 7, 1976 and recorded May 24, 1976 in the St. Lawrence County Clerk's Office in Liber 908 of Deeds at Page 1023.

### **PROJECT DESCRIPTION AS PROPOSED**

The proposed project includes a subdivision into sites involving the lease of a 100 foot by 100 foot parcel and the construction of a new 80-foot-tall (above existing ground level - AGL) telecommunications tower to be concealed as a simulated pine tree. The total height of the simulated tree tower will be 85± feet (80 foot tower plus a 5 foot crown branch and lightning rod). The tower will be located within a 42± foot by 52± foot fenced-in equipment compound located greater than 700± feet south of Blue Mountain Road. A 200 foot vegetative "no cutting" easement will protect trees in the vicinity of the proposed tower.

Within the equipment compound, Verizon Wireless is proposing to install a total of twelve 8-foot-tall panel antennas on the tower (at a centerline height of 76 feet AGL) and construct an 11.5± foot by 16± foot equipment platform. Access to the facility will originate from Blue Mountain Road along a new 760± foot long gravel access drive up to the tower site to accommodate construction and service vehicles. Utilities to serve the tower and equipment compound will be extended underground along the new 12 foot wide access road and within the 30 foot wide access and utility easement.

The project is shown on a set of plans (15 sheets) titled "Vrooman Ridge Re-Lo Drawings – Project Number 20130935085, Location Code 271868" prepared by Costich Engineering, and received by the Agency on September 19, 2016. All plans are stamped "Final Plans, Adirondack Park Agency, P2014-226. Reduced-scale copies of the sheets titled "Site Plan (Sheet CA100)" and "Tower Elevation, Details, and Notes (Sheet CA500)" are attached as part of this permit for easy reference. The original, full-scale maps and plans referenced above are the official plans for the project.

## **CONDITIONS**

### **BASED UPON THE FINDINGS BELOW, THE PROJECT IS APPROVED WITH THE FOLLOWING CONDITIONS:**

1. The project shall be undertaken as described in the completed application, the Project Description as Proposed and Conditions herein. In the case of conflict, the Conditions control. Failure to comply with the permit is a violation and may subject the permittee, successors and assigns to civil penalties and other legal proceedings, including modification, suspension or revocation of the permit.
2. This permit is binding on the permittees, all present and future owners and lessees of the project site and all contractors undertaking all or a portion of the project. Copies of this permit and the site plan maps and plans referred to herein shall be furnished by the permittees to all subsequent owners or lessees of the project site prior to sale or lease, and by the permittees or any subsequent owner or lessee undertaking construction to any contractors undertaking any portion of this project. All deeds conveying all or a portion of the lands subject to this permit shall contain references to this permit as follows: "The lands conveyed are subject to Adirondack Park Agency Permit 2014-0226 issued \_\_\_\_\_, the terms and conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."
3. The Agency may conduct such on-site investigations, examinations, tests and evaluations as it deems necessary to ensure compliance with the terms and conditions hereof. Such activities shall take place at reasonable times and upon advance notice where possible.

### **Proposed Development**

4. The proposed project shall be undertaken as shown on the project plans. The simulated tree tower shall not exceed 85 feet in height (including the 5 foot crown branch and lightning rod) and the antennas shall be located on the tower as shown on the plans referenced herein, with the top of the antennas at an elevation not to exceed 80 feet above ground level (centerline elevation of 76 feet above ground level). All clearing and grading for the proposed access road, tower, and equipment compound shall also be undertaken as shown on the project plans, including all stormwater management and erosion control measures.

### **Simulated Tree Tower**

5. The simulated tree tower approved herein shall be constructed such that it appears no taller or broader than depicted in the photosimulations as seen from County Road 27, NYS Route 58, Ridge Road, and Blue Mt. Road as submitted to the Agency as part of the project proposal prepared by the applicant. From off-site public viewpoints, the antennas and supporting infrastructure (i.e., antenna mounting cross members, cables, etc.) shall not be readily apparent as to size, composition, or color. The tower shall be constructed as proposed and shall mimic the branching structure, needle pattern, and coloration of a mature, fully-formed eastern white pine tree. The Agency shall be

notified (in writing, accompanied by high resolution color photographs in print and digital form) within 30 days of completion of the simulated tree tower and associated tower-mounted infrastructure.

Within 30 days of notification, the Agency shall provide written confirmation of permit compliance or shall specifically state the reason(s) for non-compliance with this condition. In the event of non-compliance with this condition, the permittee shall within 45 days submit a plan for Agency review and approval to modify the structure and achieve compliance. Such plan shall also include a good faith estimate regarding the time necessary to undertake such changes upon final approval by the Agency.

### **Review of Future Development**

6. Any future new land use and development on the 55± acre project site involving the construction of any new communications towers or the addition of any new antennas, parabolic dishes, or other equipment to the authorized tower, shall require prior Agency review and approval in the form of a new or amended permit. Maintenance and/or "in-kind" replacement of the tower, antennas, simulated branching, equipment building and other appurtenant facilities authorized herein is allowed without a new or amended permit. Amendments to this permit that involve only the 100 foot by 100 foot leased parcel may be processed by the Agency pursuant to an amendment request authorized by the lessee.
7. No principal building shall be constructed on the parcel measuring 10,000 square feet (0.23± acres) in area within the lease area, absent an Agency permit that ensures conformance with Executive Law § 809(10), including but not limited to conformance with the overall intensity guidelines. Any deed conveying the leased parcel shall contain the preceding sentence pertaining to the prohibition of principal buildings on the 10,000-square-foot parcel.

### **Visual/Open Space Impacts**

8. In order to minimize the visual appearance of the authorized tower, antennas, and support poles, they shall be painted dark charcoal grey or black with a non-reflective flat or matte finish or the tower may be clad in artificial bark designed to mimic a mature eastern white pine tree.
9. On the project site and within 200 feet of the tower authorized herein, no existing trees shall be cut, culled, trimmed, pruned, or otherwise removed from the project site without prior Agency review and approval in the form of a new or amended permit or letter or permit compliance, except for the removal of those trees necessary to undertake the project as shown on the tree inventory, Sheet CA133 of the project plans titled "Tree Inventory Table, Notes and Details." This condition shall not be deemed to prevent the removal of dead or downed trees within the parcel lease area, provided there is two weeks prior written notice to the Agency of the proposed cutting that includes verification by a forester or landscape architect of the condition of the tree(s) to be removed.
10. If a natural cause such as blow-down, ice storm, fire, disease or another event beyond the control of the operator of the tower and/or the antennas authorized herein results in

the complete or partial loss of the vegetation that provides the screening and/or backdrop for the tower and/or its antennas, then Verizon Wireless, or their successors and assigns, shall within six months, present a plan for Agency approval intended to achieve "substantial invisibility" as set out in the Agency's "Policy on Agency Review of Proposals for New Telecommunications Towers and Other Tall Structures in the Adirondack Park". Landowners of the site shall negotiate in good faith to allow for the implementation of any plan approved by the Agency. The plan shall describe a program of re-vegetation and/or re-design intended to achieve substantial invisibility within 10 years, or re-location to an alternate substantially invisible site within two years. The plan shall also provide for substantially the same wireless service existing prior to the loss of vegetation. Approval of the plan may be in the form of a letter of permit compliance, or a new or amended permit.

11. The tower shall not be lighted without prior Agency review and approval in the form of a new or amended Agency permit. All exterior lighting on the equipment platform shall be full cut-off fixtures shielded to direct light downward towards the ground or the equipment platform and not into the sky.

#### **Co-Location**

12. Verizon Wireless, its successors and assigns shall make space available within their leasehold to other FCC-licensed carriers for their use in creating cellular telephone "cells" and to other entities to the extent that space is available at the then-current market rate customarily charged for such space leases. However, such further use shall require prior review and approval from the Adirondack Park Agency, and will be subject to the environmental impact analysis required by law and the Agency's "Policy on Agency Review of Proposals for New Telecommunications Towers and Other Tall Structures in the Adirondack Park." Should the carriers and/or owners be unable to agree on the terms of the lease for such co-location, they shall submit the dispute to mediation or arbitration pursuant to the guidelines of a nationally recognized dispute resolution organization.

#### **Invasive Species Prevention**

13. To reduce the spread of invasive species, any mulching (as described on the project plans incorporated herein by reference) shall use only straw, and not hay.
14. All heavy equipment, including but not limited to trucks, excavators, and tractors to be used on the site for earth moving, grading or excavating, shall be washed with high pressure hoses and hot water either (i) prior to being brought on the project site or (ii) if washed on the project site, equipment shall be washed in one location to prevent the distribution of invasive species among different wash sites. The intent of this condition is to ensure that all equipment utilized for the project is clean and free of all soil, mud, or other similar material that may contain invasive plant materials, seeds, or other propagules.

### **Blasting Plan**

15. If deemed necessary to conduct blasting to construct the proposed access road or to install the tower, a blasting plan shall be provided to the Agency for prior written approval. Blasting plans that propose to modify the limits of disturbance, other vegetation scheduled to remain or the stormwater management plan as depicted on the official plans referenced herein shall be subject to review and approval in the form of a new or amended permit.

### **Documentation of Construction**

16. The Agency shall be provided with color photographs (both in print and digital form) showing the completed tower, antennas, and equipment compound within 30 days of project completion. Photographs shall be taken at the project site and from as seen from County Road 27, NYS Route 58, Ridge Road, and Blue Mt. Road. At the project site, photographs showing the entire completed project shall be provided.

From all photostations, film equivalent 55 mm and 85 mm lenses shall be employed. All photographs must clearly identify the date the picture was taken, the location of the photograph, and the lens length employed. Compliance photographs shall be taken on a clear day with little cloud cover.

Within 30 days of receipt of the photos, the Agency shall provide written confirmation of permit compliance or shall specifically state the reason(s) for non-compliance with this condition. In the event of non-compliance with this condition, the permittee shall within 45 days submit a plan for Agency review and approval to modify the structure and achieve compliance. Such plan shall also include a good faith estimate regarding the time necessary to undertake such changes upon final approval by the Agency.

### **Discontinuance of Use**

17. If the use of the tower for the authorized cellular telephone, voice, data or other forms of wireless communications is discontinued for more than one year, Verizon Wireless, its successors and assigns, shall remove the tower from the site within the following year. If the use of the herein authorized antennas for cellular telephone, voice, data or other forms of wireless communications is discontinued for more than six months, then Verizon Wireless, their successors and assigns, shall remove their respective antennas from the tower within the following six months. Once the time frames for removal have expired according to this condition, placement of a new tower on the project site or replacement of the antennas on the tower for cellular telephone, voice, data or other forms of wireless communications shall be subject to review and approval by the Agency in the form of a new or amended permit. The landowners, their successors and assigns shall allow timely removal of the tower or antenna array pursuant to this condition.

## **FINDINGS OF FACT**

### **Background/Prior History**

1. On the May 22, 1973 enactment date of the Adirondack Park Land Use and Development Plan, the project site was not part of a larger parcel of land.
2. The project site was the subject of Agency pre-Application A2013-42. This permit is a result of that pre-application and subsequent project review.
3. Verizon Wireless is a public utility and wireless telecommunications company licensed by the Federal Communications Commission (FCC) and authorized to do business in St. Lawrence County, New York.

### **Existing Environmental Setting**

4. Access for the existing residential development on the project site is on an existing gravel driveway approximately 870± feet east of the proposed driveway to serve the tower site.
5. The project site is improved by one existing single-family dwelling with an on-site water supply and an on-site wastewater treatment system, and a detached garage and shed. The remainder of the project site is vacant, and is predominantly comprised of forested vegetation. Other than the proposed telecommunications project, no new land use or development is proposed on the project site.
6. Slopes on the overall project site, and in the vicinity of the tower location, generally range between 3 and 8 percent. Existing slopes along the proposed access drive to serve the tower site range between 1 and 8 percent. Proposed slopes for the access drive range from 1 and 6 percent. Slopes for the proposed compound range between 0 to 3 percent. The project plans show the grading, stormwater management, and erosion control plans for the access drive. Soils in the vicinity of the tower consist of a glacial till, sandy loam, silt loam, and a gravelly sandy loam.
7. Existing drainage patterns and proposed culvert locations are shown on the project plans.
8. Wetlands are present on the project site, and are located approximately 550± feet south of the lease area/tower site, based on interpretation of wetland maps available for St. Lawrence County. No wetlands are present along the proposed access road or on the lease area/tower site. Wetlands described herein are intended to alert landowners and others that wetlands may be present on the project site. However, this may not identify all wetlands on or adjacent to the project site.

### **Character of the Area**

9. The project site is situated upon a forested tract of privately-owned land containing existing residential development. The Oswegatchie River is 0.80± miles north of the project site on the north side of NYS Route 3, flows east to west, and this segment of the

river is not included in the NYS Wild, Scenic and Recreational Rivers System Act. Land uses in the vicinity of the project site include forestry, seasonal camps, and year-round residential dwellings. The western boundary of the Adirondack Park is approximately 3± miles west of the project site.

### **Public Notice and Comment**

10. The Agency notified all adjoining landowners and those parties as statutorily required by § 809 of the Adirondack Park Agency Act and published a Notice of Complete Permit Application in the Environmental Notice Bulletin. No comment letters were received.

### **Other Regulatory Permits and Approvals**

11. Pursuant to the Local Government Notice Form submitted with the application, the proposed project requires Site Plan Review from the Town of Fine.
12. Since the tower is less than 200 feet in elevation, the project does not require approval from the Federal Aviation Administration (FAA).
13. The tower authorized herein will require licensing from the Federal Communications Commission (FCC).

## **PROJECT IMPACTS**

### **Land Resources**

14. Provided the access drive is constructed as shown on the project plans, including all stormwater and erosion control features, there will be no undue adverse impacts resulting from construction, maintenance, or use of the access drive.

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15. Requiring that heavy equipment used for the project be cleaned prior to on-site use will help to prevent the potential spread of invasive species.

### **Open Space/Aesthetics**

16. Prohibiting lights on or directed toward the tower and requiring the exterior light on the equipment shelter to be fully-shielded and directed downward will reduce nighttime light pollution (glare, light trespass and sky glow).

### **Visual Analysis**

17. A balloon test for the proposed tower was performed in the presence of Agency staff on October 27, 2015 to identify areas of potential visibility. As a result of the field analysis, the applicant submitted photographs depicting locations of visibility for a proposed tower height of 80 feet (with the centerline mounting height of the antennas at 76 feet). Staff review of the photographs showed the proposed monopole tower being visible in multiple locations.
18. The overall visibility of the originally proposed monopole from different vantage points within a 3-mile radius of the tower site resulted in the applicant revising the project to



include a site-specific simulated tree design for an 80-foot tower with an additional 5 foot crown concealment branching. The project is shown plans prepared by Costich Engineering received by the Agency on September 19, 2016. The plans include a branch layout titled "Tower Elevation, Details, and Notes (Sheet CA 500)" and also include photographic simulations showing the proposed monopine.

19. The proposed tower was not visible from NYS Route 3 and was visible from NYS Route 58 (1.5± to 2.0± miles), County Road 27 (2.0± to 3.0± miles), and in two locations within the immediate vicinity of the tower site on Blue Mountain Road (1/2± mile). The visibility of the tower from County Road 27 was considered the most significant potential visual impact within the viewshed because the tower is skylit and does not follow the natural contour of the tree canopy along the ridgeline. The proposed monopine as seen from NYS Route 58 is considered to be within the realm of naturally occurring conditions in the area and the concealment branching will effectively create the impression of a white pine tree.
20. The proposed tower is visible and skylit along County Road 27 for approximately 2500± feet at a distance of 2.0± to 2.6± miles northeast of the tower site. Reducing the height of the tower to mitigate the visual impact as seen from this vantage point adversely impacts the coverage objective for the project. The applicant's original proposal included an 80 foot tall monopole structure and after evaluation of the visual analysis, Agency staff recommended concealment branching and reducing the height of the crown branching to further minimize the potential for adverse visual impacts.
21. As a result of Agency review of the project based upon the pertinent development considerations set forth in § 805(4) of the Adirondack Park Agency Act and applicable regulations, it has been determined that the project will not result in any undue adverse impacts on the Park's visual and open space resources because the proposed tower and antennas will not be readily apparent as viewed from off-site locations, provided the tower is concealed as a simulated tree and the tower, antennas, and support poles are painted dark charcoal grey or black with a non-reflective flat or matte finish or the tower is clad in artificial bark.

### **Alternatives**

22. Two pre-existing towers are located within ½ mile of the proposed tower site. The first tower (1/2 mile south of the tower site) is a 147± foot tall pre-existing guyed lattice telecommunications tower owned by American Towers. The second tower (200± feet north of the tower site) is a 200± foot tall pre-existing guyed lattice tower owned by National Grid, a utility company.

23. The Applicant's Site Selection Analysis Report outlined how Verizon Wireless identified the proposed location for the new telecommunications tower. The new tower is intended to address a 2.5± mile coverage gap along NYS Route 3 in the northern portion of the Town of Fine. The Applicant's specific cell coverage objectives resulted in a limited number of viable alternative locations. As part of the evaluation of its alternatives, Verizon examined the existing tower and concluded the American Towers site is too far south of a ridgeline (between the existing tower site and NYS Route 3) to provide coverage in the gap. Other alternatives considered for the proposed tower included:
- To provide coverage to the presently unserved portion of NYS Route 3, the pre-existing (American Towers) tower would require an extension of the tower to a height greater than 200 feet to meet the intended coverage objective. This alternative would greatly increase its visibility both inside and outside of the Adirondack Park.
  - The pre-existing 200 foot tall National Grid tower is not structurally adequate to accommodate the proposed telecommunications antennae. Additionally, the existing National Grid tower is highly visible and skylit from off-site locations.
  - The Applicant's preferred alternative is the new tower at Blue Mountain Road as a monopine with concealment branching and a maximum overall height of 85 feet (including crown branching). The new tower would provide coverage along the 2.5± mile portion of NYS Route 3.
  - In order to decrease the overall visibility of the proposed tower as seen from New York State Route 27, the Agency sought a 5-to-10 foot reduction in the overall height of the proposed tower. The applicant considered the request but rejected it because the existing topography and vegetation would cause a loss of the coverage objective along the targeted section of New York State Route 3.
  - At the request of Agency staff, Micro-cell technology was considered as an alternative. However, the Applicant considers this technology as a supplement to cell towers and not as a means of extending geographic coverage. The Micro-cell systems are designed to provide "hot spot" coverage to high traffic areas, with anticipated coverage extending from a 500-foot to 1000-foot radius from each micro cell. Each pole-mounted Micro-cell site requires radio equipment and backup battery cabinets to each pole, and would be subject to the seasonal winter elements (including snow plow thrown snow, rocks, ice, vandalism, and vehicular accidents). The battery life for Micro-cell systems is approximately 2 hours versus 2-3 days for the proposed cell tower.

#### Towers Policy

24. On February 15, 2002, the Agency adopted a policy titled "Policy on Agency Review of Proposals for New Telecommunications Towers and Other Tall Structures in the Adirondack Park" (Towers Policy). This policy is intended to protect aesthetic, open space and other resources, while providing for telecommunications systems consistent with federal law. The proposed tower and antennas are consistent with the Agency's "Towers Policy" because the tower and antennas will be substantially invisible from off-site locations. The proposed simulated tree tower and antennas, including their appurtenant support facilities and access drive, will not be readily apparent as to size, composition, or color and the structure will, to the maximum extent practicable, blend

with the background vegetation as seen from all significant potential public viewing points and as documented by simulation and other visual analysis methods.

### **Historic Sites or Structures**

25. The project will not cause any change in the quality of "registered," "eligible," or "inventoried" property. Further, the application on record reveals no registered, eligible or inventoried property as those terms are defined in 9 NYCRR Section 426.2 for the purposes of implementing § 14.09 of the New York State Historic Preservation Act of 1980, would be materially affected by the proposed project.

### **CONCLUSIONS OF LAW**

The Agency has considered all statutory and regulatory criteria for project approval as set forth in § 809(10) of the Adirondack Park Agency Act (Executive Law, Article 27) and 9 NYCRR Part 574. The Agency hereby finds that the project is approvable and complies with the above criteria, provided it is undertaken in compliance with the conditions herein.

PERMIT issued this            day  
of                                   , 2016

ADIRONDACK PARK AGENCY

BY: \_\_\_\_\_  
Richard E. Weber III  
Deputy Director (Regulatory Programs)

STATE OF NEW YORK  
COUNTY OF ESSEX

On the            day of                                    in the year 2016, before me, the undersigned, a Notary Public in and for said State, personally appeared Richard E. Weber III, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is, subscribed to the within instrument and acknowledged to me that they executed the same in their capacity, and that by their signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

REW:VY:slp



