

**SUMMARY OF FINDINGS OF FACTS AND CONCLUSIONS**  
**AS DOCUMENTED IN MINUTES**  
**AND THE COMPLETED APPLICATION**

May 11, 2021

Applicant: Verizon Wireless  
118 Flanders Road, Westborough, MA 01581

Represented by: Scott Anderson of Verrill Law Firm, Portland, Maine 04101

Property: 264 Bell Hill Road, Otisfield, Maine 04270  
Tax Map R08/Lot 14

Property Owner: Ronald Balistreri  
Jill Balistreri

Relevant Ordinance for review: Wireless Telecommunications Facilities Ordinance of the Town of Otisfield, effective date: June 27, 2015. Herein referred to as The Ordinance.

Proposed Verizon Wireless Telecommunications Facilities application dated 9.22.20 submitted by Verizon Wireless to install a new 110' Cell Tower on a parcel of land, 70' by 70', herein referred to as the Site, at 264 Bell Hill Road in Otisfield leased from Jill and Ronald Balistreri to add to the area of wireless telecommunications coverage already existing within Otisfield by Verizon.

**SECTION 6. APPROVAL PROCESS**

**Findings of Facts:** The Wireless Telecommunications Facility Ordinance is the applicable ordinance for constructing a new Cell Tower. The purpose of the ordinance is to be a stand-alone ordinance, and the Application does not require reference to or review of any other ordinance. The proposed construction does not meet any of the Exemptions listed in 4.1. Approval of the Application is required by the Planning Board, herein referred to a PB.

**Conclusions:** The Application is for new construction of a Wireless Telecommunications Facility which is reviewed and approved by the Otisfield Planning Board. (See The Ordinance, Section 4 and Section 5.1.B)

**Findings of Facts:** A **Pre-Application Meeting** with the Planning Board was held on 11.10.20. Terry Turner, a consultant for Verizon, and Scott Anderson of Verrill, representing Verizon in the application process, were in attendance.

Verizon Wireless will execute a Memorandum of Lease Agreement with Ronald and Jill Balistreri for a 70' X 70' parcel of land currently owned by the Balistreri's once the Otisfield

Planning approves their application or approves the application with conditions. Verizon will construct a 110' cell tower within a fenced in area, 35' X 35' where the tower will be situated with a 20' wide easement to include a 12' access road and area for underground utilities to be constructed from Bell Hill Road to the Site. After construction, the Site will be unmanned except for inspections and repairs. The Site will be cleared of trees prior to construction. A site walk was agreed to be unnecessary,

**Conclusions:** (See minutes of the 11.10.20 meeting. The PB members all agreed they were familiar with the Site, and the Satellite map of the property and Site Plan maps were sufficient so that they did not need to do a Site walk.

**Findings of Facts:** A **Balloon Test** was scheduled for 11.21.20 and was posted on the Town Website on 11.18.20. Photo Simulations were also taken at that time. The 'red balloon' (top of the tower) was visible from three locations within the Town out of the (12) locations selected to test.. None of the three views of the tower obstruct the views to be protected as listed in the Otisfield Comprehensive Plan Update's Scenic Views Table.

**Conclusions:** See Tab A of the 1.5.21 Supplement to the Application. All the sites where photographs were taken are indicated on the map and the methodology is detailed. Photo Simulations of the three views of the Balloon show only the top antenna in View 10 and a portion of the antenna in View 3 (mostly hidden by trees), and the top third of the Tower in View 1 which is from the road angled up toward the Tower directly in front of the Tower Site. There is no view being obscured in View1. (See 1.5.21 Supplement to Application and minutes from the 1.5.21 meeting).

**Findings of Facts:** The \$500. **Application Fee** was submitted to the Town with **the Application dated 9.22.20**. The **1.5.21 Supplement to the Application** was submitted on 1.5.21. A second **Supplement to the Application** was submitted on **2.23.21**.

**Conclusions:** A copy of the Lease Agreement is attached in Tab E of the Application. A copy of that Agreement is signed by both parties and is included in Tab A of the Supplement to Application dated 2.23.21. A copy of the FCC Radio Frequency Compliance Assessment was included in the 2.23.21 Supplement as Tab B.

Except for the residence structures and surrounding yard area, the property is heavily wooded. Trees and vegetation will only be cleared on the Site as well as the area needed for the access/utility easement. Otherwise, the property will not be disturbed and the Site will be screened on all sides. At 110' the tower will only be visible from three (3) points of view around the Town with the top of the tower only minimally visible above the tree line. The Site will be 137.5' from Bell Hill Road and from the back boundary. The side setbacks are 1075' and 367' to the abutting properties. Development and use of the Site will conform to all applicable codes, ordinances, and specifications.

(See the Application dated 9.22.20, including the Tabs, the Supplement to the Application dated 1.5.21, including tabs, the Supplement to the Application dated 2.23.21, including Tabs, the 11.10.20 Minutes of the Pre-Application Meeting, and Minutes from the 1.5.21 and 2.23.21 meetings. See Site Plan maps included in Tab D of the 9.22.20 Application.)

**Findings of Facts:** All of the requirements and submissions for a **complete application were met with the Condition** that the following requirements must be met before the CEO will issue a Building Permit:

- *Details of the Tower base or method of attachment to a structure....*  
\*There was a Motion 01.05.21 to accept his response but place a condition that CEO will review prior to the issuing of Building Permit and construction.
- *Road opening permit issued by the Otisfield Road Commissioner.* \*There was a Motion 01.05.21 to accept with the condition that prior to issuance of the permit the opening permit be issued by Road Commissioner and approved by CEO.
- *A form of surety approved by the Planning Board to pay for the costs of removing the facility if it is abandoned.* \*There was a Motion passed today that the performance bond be in effect prior to giving the Building Permit as determined by the CEO.

**A Public Hearing** was scheduled for March 23, 2021.

**Conclusions:** See the 9.22.20 Application, the 1.5.21 Supplement to the Application, the 2.23.21 Supplement to the Application, and the 1.5.21 and 2.23.21 meeting Minutes.

**Note:**

Verizon was asked at the 2.23.21 meeting to provide additional exhibits and information at the Public Hearing including maps and a description of how the additional coverage that will be provided with the proposed Cell Tower will fit into their existing network in Otisfield. Verizon was also asked to explain at the Public Hearing why another site was looked at on E. Swampville Road and an Agreement signed with the property owner in 2014, but the location was not selected for the current Application.

**Findings of Facts:** Verizon did comply with the two requests to the satisfaction of the Planning Board at the Public Hearing. The Agreement between Mrs. Arsenault and Verizon was no longer in effect. The PB had an application from Verizon for construction of a new Wireless Telecommunication Facility at another property site in Otisfield at 264 Bell Hill Road. This application is the only application to construct a Cell Tower in front of the PB for review and approval. This is the only request to construct a new Cell Tower that the PB can consider. Verizon presented exhibits of their current coverage in Otisfield. They showed that they are co-located on a Cell Tower in Oxford and in Harrison that provide the existing Verizon coverage in Otisfield. The exhibits showed the areas in Otisfield that will be newly covered.

**Conclusions:** (See Minutes of the 3.23.21 Public Hearing. Also see the minutes (5.A.) of the explanation provided to Mrs. Virginia Arsenault at the 2.23.21 meeting. Mrs. Arsenault was referred to Verizon with her complaint that Verizon was not using her property. The agreement between Verizon and Mrs. Arsenault expired after five (5) years in 2019. Based on new technology and equipment, the Verizon Field Engineer determined that the lower 110' cell tower at **the Bell Hill location would provide greater coverage with less visual impact of the tower**

to the surrounding area. The antenna on the tower requires a line of sight of the area to be covered. **The 180' tower on Mrs. Arsenault's property on E. Swampville Road that would have been necessary to get less coverage would have been much higher than the tree line.**

**Findings of Facts:** The **Public Hearing** was scheduled and advertised to be held at 6:00 pm without an ending time. The regular meeting of the Planning Board was scheduled for 7:00 PM. The Chair of the PB said at the Hearing that the regular meeting would follow the Hearing without stating a specific time. The Chair did not refuse to or deny the request from Ms. Roy to reschedule or extend the ending time of the Hearing. The Hearing continued past 7:00 PM and was adjourned at 7:22 PM

**Conclusions:** (See published notice of Agenda for Public Hearing and Planning Board Meeting for 3.23.21). The PB was asked to reschedule another Hearing or extend the time for the existing Hearing by Kristin Roy after she read Section 6.6 B.4. aloud. The Chair responded that the regular meeting would follow the Hearing and that "We'll see how it goes." without saying yes or no to the request. The Hearing was allowed by the Chair to continue beyond the one hour scheduled time.

**Findings of Facts:** Before the meeting began, Ms. Roy asked the Chair if she could read from each of two documents she submitted for the Public Record. Ms. Roy said that the Severability Complaint would take about five minutes to read when asked by the Chair. The Chair agreed that Ms. Roy could read that Complaint at the Hearing. The Severability document was placed into Public Record. Ms. Roy did read the Severability Complaint aloud at the open Hearing.

**Conclusions:** The Chair intended and did read in her instructions for proceeding at the beginning of the meeting that the PB wanted as many people as possible to be able to comment and ask questions. She said that each person would be given a "few minutes" to be heard; and if their questions or comments would require a longer time, they could submit them in writing for review and response from Verizon or the PB. Ms. Roy was allowed to submit her Severability Complaint document into Public Record and to read it aloud because it would take only about five minutes, and she was adamant that it had to be read aloud. (See minutes of the 3.23.21 Public Hearing).

**Findings of Facts:** George Chianis stated that he is not against the Cell Tower being addressed. He said he was working with Mrs. Arsenault to determine if a site on her property could be used to construct another Cell Tower and provide additional wireless telecommunication coverage. He submitted a letter of introduction and an explanation of his work, and it was accepted into the Public Record.

**Conclusions:** Mr. Chianis wanted to assure the PB and residents of Otisfield that he was not against the application for a Cell Tower before the PB. He also wanted to inform the public that he was a qualified telecommunications engineer who was working for Mrs. Arsenault to determine if a site on her property might be a suitable site for a Cell Tower. (See Minutes of the 3.23.21 meeting).

**Findings of Facts:** Before the meeting began Ms. Roy asked the Chair if she could read aloud the second document she was submitting for the Public Record, Request for Independent Review. Ms. Roy said it would take about fifteen minutes. The Chair said she could read the document but asked her to summarize as much as possible because she couldn't give Ms. Roy more time than the other attendees would be given. Ms. Roy responded that she should be allowed to be heard since she is an elected representative of Otisfield on the School Board. Ms. Roy was recognized by the Chair for a third time during the Hearing. The Request for Independent Review document was entered into the Public Record. She began to read from the document. After more than fifteen minutes, an attendee of the Hearing and a resident of Otisfield, Kyle Jordan, asked the Chair for a Point of Order. He questioned the amount of time Ms. Roy was taking. He asked her to make her point. Ms. Roy stated "you can't deny me my right to speak." Ms. Roy again read from her document until multiple attendees asked her "to get" to her point. The Chair and the Board members did not tell Ms. Roy to stop speaking. The Chair asked Ms. Roy to "make her point or" she "would have to cut her off." Ms. Roy stated that her point was that "the PB needs to hire an independent contractor to find a better location so that more children and parents can have access to the internet. Because the document she was reading aloud from had been entered into the Public Record, the PB Chair told Ms. Roy that she had been heard and the PB and the attendees asked Ms. Roy to sit down at that point.

**Conclusions:** As a courtesy, because Ms. Roy said she was an elected official of the Town as Otisfield's representative to the School Board, and because she was insisting that the documented had to be heard, the Chair agreed that Ms. Roy could read her document even though it would take more than a few minutes. The Chair did ask her to summarize as much as possible to shorten the reading time. The attendees were becoming increasingly agitated about the length of time Ms. Roy was taking to read verbatim from her document. The PB did not stop her. A townspeople in attendance called for a Point of Order. He did not ask her to stop talking, only that after more than fifteen minutes, she should make her point. Ms. Roy did not make her point; she continued to read verbatim. Only after the audience was becoming noticeably annoyed and only after they began to speak out asking her to get to the point and to sit down, did the Chair ask Ms. Roy to state the point of the document or she would have to "to cut her off." (See the minutes of the 3.23.21 Public Hearing).

**Findings of Facts:** The Public Hearing was held as scheduled and advertised. Multiple people asked questions and/or made comments about the Application. Mr. Anderson answered all questions and responded to comments addressed to him. Attendees were at the Hearing in person with Social Distancing due to Covid. Attendees were also present via a Zoom audio and video link provided by the Town. All attendees were given the opportunity to be heard whether in person or on Zoom. Residents and non-residents were allowed to ask questions and comment. Any attendee was able to ask more than one question. The Public Hearing was adjourned only when everyone had had an opportunity to be heard about an issue that had not previously been addressed and was thereby repetitive.

**Conclusions:** The Chair encouraged people to speak and allowed multiple questions from an individual. Non residents were able to ask questions and comment. Other than Ms. Roy repeating that she had a right to be heard, the Hearing was not adjourned until no one else asked to speak. (See minutes of 3.23.21 Public Hearing).

## **SECTION 7. STANDARDS OF REVIEW**

### **7.2. Planning Board Approval Standards**

**7.2.A.** Siting on Municipal Property. If an applicant proposes to locate a new Wireless Telecommunications Facility, or expand an existing facility on municipal property, the applicant must show the following:....

**Findings of Facts:** The proposed Site is not on Municipal Property. Verizon is leasing a 70' X 70' parcel of land at 264 Bell Hill Road in Otisfield, a private residence. Tax Map 08/14.

**Conclusions:** This Standard is Not Applicable since the proposed Site is on private property. Motion: this Standard is N/A. RJ/OB – Unanimous. (See 9.22.20 Application, Tab C Response and 3.23.21 Meeting Minutes.)

**7.2.B.** Design for Co-location. A new Wireless Telecommunications Facility and related equipment must be designed and constructed to accommodate expansion for future colocation of at least three additional wireless telecommunications facilities or providers. However, the Planning Board may waive or modify this standard where the height limitation effectively prevents future co-location. Proposals for the siting of Wireless Telecommunications Facilities or antennae on existing towers or Alternative Tower Structures (ATS) or at locations that presently have Wireless Telecommunications Facilities are favored over proposals for construction of new towers on sites where towers do not presently exist. The Planning Board review process guides Wireless Telecommunications Facility applicants towards co-location and requires the applicant to prove, among other factors, that their proposed antennas or facilities cannot be accommodated by existing tower structures. The Planning Board shall have the authority to determine whether or not co-location is a reasonable, practical and feasible option.

**Findings of Facts:** The proposed facility is a 110' monopole. It is capable of allowing or accommodating three (3) additional antenna arrays. The Site is sufficiently large to accommodate the equipment from additional carriers. Co-location by other carriers would need to negotiate separate rights with the Balistreri's. There are no existing tower structures in Otisfield or within a (2) mile radius. There are two existing or nearby tower structures that Verizon could co-locate an antenna on: one in Oxford and one in Harrison; however, Verizon already has antennas co-located on the two towers providing coverage. There are no others.

**Conclusions:**

Motion that all requirements of Section B apply, and the Standard has been met. RJ/SB – Unanimous. (See 9.22.20 Application, Tab C Response, 1.5.21 Supplement, Tab B, 3.23.21 Public Hearing and Meeting Minutes)

**7.2.C.** Height. A new Wireless Telecommunications Facility must be no more than one hundred eighty (180) feet in height. The applicant shall be prepared to justify the height being requested.

**Findings of Facts:** The proposed facility is 110'. The lightening rod attached above is not included in the monopole height because it is not an antenna that is a device for communication of radio frequencies which, by definition, would be required in order to be considered an antenna.

**Conclusions:** Motion that this height of 110' is acceptable and the Standard has been met. HO/SB – (4) approve (1) abstained – OB. (See 9.22.20 Application Tab C Response, 3.23.21 Meeting Minutes).

**7.2.D. Setbacks.** A new or expanded Wireless Telecommunications Facility shall be set back a minimum of one hundred twenty-five percent (125%) of its height from the outer perimeter of the tower compound area. This area shall be considered the fall zone. The setback may be satisfied by including the areas outside the outer perimeter of the tower compound area.

**Findings of Facts:** The setback of the 110' tower is located more than 125% from the three (3) property boundaries. The setback from Bell Hill Road is 137.5' if measured to the base of the monopole. 125% of a 110' facility is 137.5' if measured from the base of the monopole. In the reading of how the setbacks should be measured in the Standard and in the Definitions, the PB could not determine from what point of the facility the setback should be measured. A motion was made that the PB is interpreting the definition of the Setback distance of 125% of the height of the monopole to be from the base of the tower because it is ambiguous. OB/HO – Unanimous.

**Conclusions:** The PB considered the intent of the Setback Standard that the 125% of the height of the facility is to allow a reasonable fall-zone. Using the interpretation of how setback is to be measured as voted on by the PB, the PB motion was made. Motion: that this setback standard has been met. RJ/SB – Unanimous. (See Site Plan map C-1, Tab D of the 9.22.20 Application, Ordinance Definition of Setback, 9.22.20 Application Tab C Response, 3.23.21 Meeting Minutes).

**7.2.E. Landscaping.** A new Wireless Telecommunications Facility and related equipment must be screened with plants from view by abutting properties to the maximum extent practicable. Existing plants and natural land forms on the site shall also be preserved to the maximum extent practicable. All Wireless Telecommunication Facilities shall maintain the required setbacks as undisturbed vegetated buffers except for the access road. The Planning Board may require additional plantings in the buffer area(s) to enhance the quality and effectiveness of the buffer area to serve as a visual screen. The size and quantity of plantings shall be subject to Planning Board approval.

**Findings of Facts:** The facility will be installed within an existing forested area and buffering will be provided by existing vegetation. The facility will be screened from view by abutting properties to the greatest practicable extent. Soil will be graded from behind the Site onto the area for the monopole pad. The only other clearing of trees will be from the 70' X 70' Site and from the 20' access/utility easement. Applicant agreed there will be no disturbing or cutting of trees during construction from June 1 through July 30<sup>th</sup>, Northern Longeared Bat nesting season.

**Conclusions:** The Site is situated 137.5' from the road and the same distance from the rear property boundary. The two side boundaries are 370' and 1075' from the facility, so the Site will be well screened. The clearing for the access/utility easement will be kept to a minimum. All existing plants and natural land forms will be preserved to the maximum extent practicable. Verizon is familiar with the nesting season of the Northern Longeared Bat in Maine and does not

do any tree work during that period. They also agreed to this restriction being a Condition of Approval. Motion that this Standard has been satisfied. RJ/OB – Unanimous. (See Site Plan maps C-1, C-2, Z-1, and Z-2 in in Tab D of the 9.22.20 Application, 2.23.21 Meeting Minutes Response to Section 6.2(8), 3.23.21 Meeting Minutes, 4.13.21 Meeting Minutes).

**7.2.F. Fencing.** A new Wireless Telecommunications Facility must be fenced to discourage trespass on the facility and to discourage climbing on any structure by trespassers. Access to tower(s) shall be through a lockable gate. Roof mounted towers are exempt.

**Findings of Facts:** There will be a 6 to 7' chain link fence around the 35' X 35' facility area, which will include an additional foot of barbed wire on top. There will be a locked gate. The applicant has agreed that the Town Fire Department will have either a key or a code to the lock.

**Conclusions:** The fence, with a 1' climbing barrier and lockable gate, meets the requirements of this Standard. The Fire Chief will be given a key or the code to the gate lock. Motion that this Standard has been satisfied. OB?SB – Unanimous. (See 9.22.20 Application, Tab C Response, and 3.23.21 Meeting Minutes).

**7.2.G. Lighting.** A new Wireless Telecommunications Facility must be illuminated only as necessary to comply with FAA or other applicable State and Federal requirements. However, security lighting may be used as long as it is shielded to be down-directional to retain light within the boundaries of the tower compound area to the maximum extent practicable.

**Findings of Facts:** The Application includes downward facing lighting within the fencing. The FAA does not require light for a 110' tower. Verizon changed their proposal to eliminate any lighting at the Site but did not remove the element from the Application. There will not be any fixed lighting on the Site.

**Conclusions:** Initially, the proposal was to be for a taller tower which would have required lighting by the FAA. When the proposal was changed to a shorter 110' tower, the lighting feature was removed from the proposal but was not removed from the Application. None of the Site Plan maps show lighting. This Standard no longer applies to this Application. Motion that this Standard is non-applicable. RJ/OB – Unanimous. (See 9.22.20 Application, Tab C Response, 3.23.21 Meeting Minutes).

**7.2.H. Color and Materials.** A new Wireless Telecommunications Facility must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. Unless otherwise required, muted colors, earth tones and subdued hues shall be used.

**Findings of Facts:** The tower will be constructed with galvanized steel and painted a non-reflective flat gray color.

**Conclusions:** The non-reflective gray color is a muted color. This color is consistent with traditional wireless towers elsewhere. (See 9.22.20 Application, Tab C Response, 9.22.20 Application in Tab D, 3.23.21 Public Hearing Meeting Minute, 3.23.21 Meeting Minutes).

**7.2.I. Structural Standards.** A new wireless telecommunications facility must comply with the current Electronic Industries Association/ Telecommunications Industries Association (EIA/TIA) 222 Revision Standard entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures".



**Findings of Facts:** The proposed facility has been designed by a licensed engineer. The construction design for the foundation will be put out for bid. The facility will be designed in accordance with and comply with the current Electronic Industries Association (EIA/TIA) 222 Revised Standard as detailed in “Structural Standard for Steel Antenna Towers and Antenna Supporting Structures”. A Building Permit will not be issued until the Otisfield CEO approves the design of the foundation.

**Conclusions:** The tower and compound has been designed by a licensed engineer, but the design of the foundation was not put out for bid until Verizon knew their Application had been approved. The structural standards for the design of the tower as referenced in the Ordinance have been complied with. The supporting structures referenced in the Ordinance will be complied with. The CEO will not issue a Building Permit until he approves the design of the foundation. This condition will be a Condition of Approval. Motion that requirements of this Standard have been satisfied with the added Condition of Approval. RJ/OB – Unanimous. (See 9.22.20 Application, Tab D, Site Plan map Z-3, 9.22.20 Application, Tab C Response, 3.23.21 Meeting Minutes, 4.13.21 Meeting Minutes).

**7.2.J.** Visual Impact. The proposed wireless telecommunications facility will have no unreasonable adverse impact upon designated scenic resources within the Town, as identified either in the Town of Otisfield’s Comprehensive Plan’s Significant Scenic Vistas Table, or by a State or Federal agency. If the facility is to be sited above the ridge line, it must be designed to minimize its profile by blending with the surrounding existing natural and man-made environment to the maximum extent practical using available materials, natural buffers, and the Tower location site. In determining the potential unreasonable adverse impact of the proposed facility upon the designated scenic resources, the Planning Board shall consider the following factors.

(See the 1.5.21 supplement to the Application, Tab A, Photo Simulations).

**Findings of Facts:** Balloon Tests were done on 11.21.20. Photo-Simulations were done using Autodesk 3ds Max Software. Images of the site were taken from (12) points within the Town surrounding the proposed tower location, both from a far distance away and from a close viewpoint. The trees in the images had mostly lost their leaves. The red Balloon was visible from (3) viewpoints: 1) At the intersection of Peaco Hill and Bell Hill Roads taken from the viewpoint on Peaco Hill Road from the ground looking south toward the proposed Site on Bell Hill Road; 2) on the right side of Bell Hill Road by the Bell Hill Meetinghouse sign looking northwest toward the proposed site; and 3) on the right side of Bell Hill Road about two thirds up Bell Hill Road between the Site and the intersection with Pond View Road looking southeast. The red Balloon could not be seen from any other of the nine viewpoints. The weather condition and visibility were within acceptable levels to conduct the Visual Analysis.

**J.1.** The extent to which the proposed wireless telecommunications facility is visible above the tree line, from the viewpoint(s) of the impacted designated scenic resource.

**Findings of Facts:** In the (3) images where the red Balloon was visible it was not visible below the dense lower tree line, but it was visible between limbs of the taller trees with the exception of Viewpoint (3) which shows it at the same height as the top of the nearby trees.

**J.2.** The type, number, height, and proximity of existing structures and features, and background features within the same line of sight as the proposed facility.

**Findings of Facts:** The images show all structures, features and background features within the same line of sight. There are no structures blocking the line of sight. There are trees and branches

within the same line of sight. There are no other background features (trees) that would be within the same line of sight.

**J.3.** The extent to which the proposed wireless telecommunications facility would be visible from the viewpoint(s).

**Findings of Facts:** In the images provided there are no leaves on the trees. There will be leaves on the trees within the viewpoint at least six months of the year.

**J.4.** The amount of vegetative screening or the impact of any artificial screening  
There is significant vegetative screening of approximately the bottom half of the monopole from dense woods in all the viewpoints. In (9) out of (12) viewpoints there would be virtually complete screening. In (3) of the viewpoints the amount of screening decreases the higher up the monopole is viewed, until at the top portion, that would include an antenna, there is minimal screening. The monopole presents a minimal impact hidden within the natural tree growth of the woods. Artificial screening from imitation trees would have more mass and different colorization than the surrounding trees.

**J.5.** The distance of the proposed facility from the viewpoint and the facility's location within the designated scenic resource.

**Findings of Facts:** The proposed facility will not block, obscure or interfere with viewing any of the scenic resources listed on the *Table of Significant Scenic Vistas in Otisfield* included in the Otisfield Comprehensive Plan Update. The view from any of the designated scenic resources in the *Table* will not include the proposed facility with one exception. The image on Bell Hill Road from the viewpoint of the road will be minimally visible. The area between the Meetinghouse and the Site is wooded. The view toward the Site from outside of the Meeting house would be significantly obscured by the trees but could include the top of the monopole when the leaves are off the trees. The distance of the Meetinghouse to the proposed facility is approximately 1 to 1 and ½ Miles.

**J.6.** The presence of reasonable alternatives that allow the facility to function consistently with its purpose.

**Findings of Facts:** There are no existing towers within a (2) mile radius of the proposed facility. The radio frequency decreases beyond (2) miles. There are only two other alternative towers within a reasonable distance of the proposed facility. The applicant is already co-located on the tower in Harrison and in Oxford. The purpose of the Application is to increase wireless telecommunications coverage in Otisfield.

**J.7.** If more than one tower is proposed on a single lot or parcel, they shall be clustered as closely together as technically possible.

**Findings of Facts:** Only one (1) tower is proposed.

**J.1-7. Conclusions:** The proposed facility is situated within woods which will naturally screen much of it. The shorter 110' monopole will not have a significant visual impact around Otisfield. The images which showed some visibility are from relatively close viewpoints and only the uppermost section of it will be seen. Six months of the year, when leaves are on the trees, it will be mostly invisible. Otherwise, it will be obscured within tree limbs for the most part. There are no other existing alternatives that will allow the applicant to improve and increase the coverage of wireless telecommunication to the residents of Otisfield. The monopole tower will be much less visually impactful screened by natural trees than the mass that would be required to camouflage it artificially. (See 9.22.20 Application, Tab C Response and Tab D Site Plan map

C-2 and Z-2, 1.5.21 Application Supplement Tab A, 1.5.21 Meeting Minutes, 2.23.21 Meeting Minutes [5.A.], 3.23.21 Public Hearing Minutes, 3.23.21 Meeting Minutes).

**7.2.K. Noise.** During construction, repair, or replacement the operation of a back-up power generator is only allowed between seven (7) am and nine (9) pm. There is no restriction of operation of an auxiliary generator once the Wireless Telecommunications Facility is operational.

**Findings of Facts:** During construction or replacement of the facility, the back-up power generator will operate only between 7am and 9pm. There is no time restriction for operating a generator during repairs or inspections Once the facility is operational.

**Conclusions:** The applicant has agreed that it will not operate a power generator between the hours of 7am and 9pm during the construction period or during replacement of the facility. Motion that the agreement to this Standard by the applicant is acceptable as proposed. RJ/SB – Unanimous. (See 9.22.20 Application, Tab C Response and 3.23.21 Meeting Minutes).

**7.2.L. Historic & Archaeological Properties.** The proposed facility, to the greatest degree practicable, will have no unreasonable adverse impact upon a historic district, site or structure which is currently listed on or eligible for listing on the National Register of Historic Places.

**Findings of Facts:** The National Registry Commission issued a National Environmental Preservation Act Approval for the Site to be used as proposed. The closest structure that is listed on the National Register of Historic Places is the Bell Hill Meetinghouse which is southeast of the Site and at a distance.

**Conclusions:** The proposed Site is not located within a historical or archaeological district according to NEPA Approval document. Although the proposed Site is near the Bell Hill Meetinghouse, it is far enough away on Bell Hill Road to have no unreasonable adverse impact. The NEPA Approval did mention the existence of the Northern Longeared Bat at the Site as a Note; but the applicant has already agreed to comply with the condition not to do any tree work during their nesting season of June 1 through July 31<sup>st</sup> (See Standard 7.2.D.). Motion that the requirements of this Standard do not apply. RJ/SB – Unanimous. (See 9.22.21 Application, Tab C Response, 1.5.21 Supplement to the Application, Tab D, 3.23.21 Meeting Minutes).

**7.2.M. Surface Water Drainage.** Adequate provision shall be made for disposal of all storm water generated within the project area including access route through a management system of ditches, swales, culverts, underdrains, and/or storm drains. The storm water management system shall be designed to conduct storm water flows to existing watercourses or storm drains.

1. All components of the storm water management system shall be designed to meet the criteria of a 25-year storm.

**Findings of Facts:** The site of the proposed facility will handle a 100 year storm.

2. Outlets shall be stabilized against soil erosion by stone riprap or other suitable materials to reduce storm water velocity.

**Findings of Facts:** According to the Erosion and Sedimentation Control Plan designed by a licensed engineer, the following actions must be taken. All erosion and sediment BMPS shall be maintained according to Best Practices until the Site is stabilized. During construction and maintenance, inspections of all erosion and sediment BMPS will be performed immediately after

each run-off event and on a weekly basis for as long as required. All prevention and remedial maintenance measures will be performed immediately. There are no outlets to stabilize.

3. The storm water management system shall be designed to accommodate upstream drainage, taking into account existing conditions and approved or planned developments not yet built and shall include a surplus design capacity factor of 25% for potential increase in upstream runoff.

**Findings of Facts:** The proposed facility is at the top of the Site. There is no surface above the Site.

4. Downstream drainage requirements shall be studied to determine the effect of the proposed project. The storm drainage shall not overload existing or future planned storm drainage systems downstream from the project. The applicant shall be responsible for financing any improvements to existing drainage systems required to handle the increased storm flows.

**Findings of Facts:** The topography of the Site is graded at (1) foot per (10) feet until the back boundary of the Site. The Site will be leveled with grading to the sides. There are dense woods surrounding the Site which will not be disturbed beyond the 70' X 70' area. The access road will have swales along both sides. The road will be (12') wide with a 20' easement. The Site is 137.5' from Bell Hill Road protected by woods. The nearest structure is hundreds of feet to either side.

**Conclusions:** The installation of the facility will impact only a small area and will not result in any significant stormwater or other drainage run-off. Whatever stormwater there will be, will be absorbed by the wooded areas surrounding it before reaching the main road. Having a consultant licensed engineer review the plans and Site was deemed unnecessary. Motion to ask Ross Cudlitz, P.E., Engineering assistance & Design, Inc. to look at this section of the Stormwater management system. KT/OB – (1) in favor (KT) (4) opposed – Defeated. Motion that the requirements of this Standard have been met, with the exception of 2., 3., and 4., which do not apply. RJ/OB – Unanimous. (See 9.22.20 Application, Tab C Response and Tab D Site Plan maps Z-2 and Z-3 and C2. See 3.23.21 Meeting Minutes, 4.13.21).

**7.2.N.** Conservation, Erosion and Sediment Control. Soil erosion and sedimentation of water-courses and water bodies shall be minimized. The following measures shall be included, where applicable, as part of any Wireless Telecommunications Facility and approval.

1-10.....

**Findings of Facts:** The measures, 1-10, necessary to be taken to prevent or minimize soil erosion and sedimentation controls are detailed in the applicant's Site Plan. The applicant has agreed to utilize the practices listed on the Site Plan during construction, including the basic stabilization standards of Maine's Erosion and Sedimentation Control Law, 38 M.R.S.A. Section 420-C0. There are no water courses or water bodies at risk of being impacted by sedimentation and soil erosion from the proposed facility. The Town CEO will monitor the construction phase of the proposed project.

**Conclusions:** The applicant has a Control Plan designed by a licensed engineer and has agreed to abide by it. The applicant is committed to doing everything required to meet this Standard. Motion that 7.2 N items 1-10 are met and the CEO will monitor during construction. RJ/SB – Unanimous. (See 9.22.20 Application, Tab C Response and Tab D, Site Plan map Z-2, 3.23.21 Meeting Minutes, 4.13.21 Meeting Minutes).

**7.2.O. Phosphorous Export.** A Wireless Telecommunications Facility proposed within the direct watershed of a lake or pond listed in Appendix A shall be designed to limit phosphorus runoff to the levels established in Appendix A. 1. Phosphorus export shall be calculated according to the procedures defined in "Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development" (Maine DEP et.al., September 1989 with revision in 1992 and as may be amended). Copies of all worksheets and calculations shall be submitted to the Planning Board. 2. Phosphorus control measures shall meet the design criteria contained in "Phosphorus Control in Lake Watersheds: A Technical Guide for Reviewing Development" (Maine DEP et al., September 1989 with revisions in 1992 or as may be amended). The Board shall require the reasonable use of vegetative buffers, limits on clearing, and shall encourage the use of other nonstructural measures prior to allowing the use of high-maintenance structural measures such as infiltration systems and wet ponds.

**Findings of Facts:** The proposed facility is not within a direct Watershed of a lake or pond listed in Appendix A of the Ordinance.

**Conclusions:** The requirements of this Standard do not apply to the proposed facility. Motion that 7.2 O. is N/A. HO/SB – Unanimous.

### **7.3. Standard Conditions of Approval**

Note: As documented in the 4.13.21 Meeting Minutes, the applicant verbally agreed to each of the Conditions of Approval, A-E. Conditions A and B have been complied with, as documented below. A letter to the applicant was sent on 4.19.23, requesting that a written and signed response be submitted to the PB for their review stating that Verizon does agree to comply with **Standard Conditions of Approval C. through E.** and their sub-sections. A signed letter dated 4.24.21 from Scott Anderson on behalf of Verizon Wireless was received. In addition to their agreement to comply with Standard Conditions of Approval C. through E., as noted below, Verizon Wireless agreed to comply with all applicable conditions as set forth in **Section 7.3.**

**7.3.A.** The owner of the wireless telecommunications facility and his or her successors and assigns agree to: 1. Respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response. 2. Negotiate in good faith for shared use of the wireless telecommunications facility by third parties. 3. Allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for co-location. 4. Require no more than a reasonable charge for shared use of the wireless telecommunications facility, based on community rates and generally accepted accounting principles. This charge may include, but is not limited to, a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the life span of the useful life of the wireless telecommunications facility.

**Findings of Facts:** The required Letter of Agreement dated 7.30.20 was submitted in the 9.22.20 Application, under Tab H.

**Conclusion:** The Condition has been met. Motion that 7.3A has been met by the letter dated July 30, 2020. All agree. RJ/HO – Unanimous. (See 9.22.20 Application, Tab H and 4.13.21 Meeting Minutes.

**7.3.B.** Upon request by the Town of Otisfield, the applicant shall certify compliance with all applicable FCC radio frequency emissions regulations.

**Findings of Facts:** The Radio Frequency emissions that will be generated have been detailed in Verizon's Radio Frequency Exposure, FCC Compliance Assessment and have been submitted in the 2.23.21 Application, Tab B. The pre-activation Maximum Predicted Emissions (MPE) modeling shows that the predicted MPE Level on Site for all the required categories are less than the allowable MPE Limits. The FCC will not approve the proposed facility to be built unless the emissions comply with their limits.

**Conclusions:** The Radio Frequency Emissions pre-activation model predicts that the emissions are significantly lower than the allowable FCC limits. If they exceed those limits, the proposed facility will not be approved by the FCC and will not be built. (See 2.23.21 Application Supplement, Tab B, 2.23.21 Meeting Minutes, and 4.13.21 Meeting Minutes).

**7.3.C.** Guarantees. All guarantees shall be on a continuous basis, with any provision for cancellation to include that a minimum thirty (30) day notice of cancellation or non-renewal be sent by certified mail to the Town of Otisfield. The guarantee shall be for a minimum term of five years. It must contain a mechanism, satisfactory to the Planning Board, for review of the cost of removal of the structure every five (5) years, and a mechanism for increasing the amount of the guarantee should the revised cost estimate so necessitate; 1. Performance Guarantee. Any application that required Planning Board review and approval may be required to post a performance guarantee for the development, construction, or modification to the Wireless Telecommunications Facility. The Planning Board shall determine whether or not a performance guarantee is required based on the Board's assessment of the potential of the project to cause the Town to incur expenses, such as to stabilize the site if the project is not completed. The amount of the guarantee shall be sufficient to return the land to a condition as near to the original pre-construction condition as practical as determined by the Planning Board. The amount of the guarantee shall be determined by the Planning Board based on estimates from independent contractors. The type of guarantee shall be approved by the Board of Selectmen. The guarantee shall be released only as authorized by the Planning Board. 2. Guarantee for Removal of Abandoned Wireless Communication Facilities. a. The applicant for a new tower shall post a guarantee in the form of a continuous corporate surety bond in favor of the Town equal to 125% of the estimated demolition and removal cost of the tower and associated facilities if abandoned at any time by the applicant. Estimates of demolition and removal costs shall be provided by an independent contractor and shall not be based on services being provided by Town employees and Town equipment. b. The amount of the guarantee shall be approved by the Planning Board and shall be sufficient to return the land to a condition as near to the original pre-construction condition as practical as determined by the Planning Board. c. Unless the landowner requests otherwise, all above ground structures, equipment, foundations, guy anchors, utilities and access roads or driveways specifically constructed to service the tower, structures, equipment or utilities shall be removed, and the land returned to a condition as near to the original pre-construction condition as practical. d. The type of the guarantee shall be approved by the Board of Selectmen. The Board of Selectmen shall have the authority to require either a certified check payable to the Town of Otisfield, a savings account passbook issued in the name of the Town or a faithful bond running to the Town of Otisfield and issued by a surety company authorized to do business in Maine and

acceptable to the Board of Selectmen. 3. Proof of financial capacity to build, maintain, and remove the proposed tower must be submitted.

**Findings of Facts:** Bell Atlantic, d/b/a Verizon, is a large corporation listed on the New York Stock Exchange. **7.3.C.1, 2, 3.** Verizon has installed multiple wireless telecommunications facilities throughout the country. The applicant verbally agreed to provide a Performance Guarantee if required by the PB or the Town of Otisfield. The Ordinance states that the Planning Board has the discretion to determine whether, or not, a Performance Guarantee is required. The applicant verbally agreed to provide a Guarantee for Removal, as required, and has confirmed that agreement in a signed letter dated 4.24.21 to the PB. Verizon has agreed to provide their latest quarterly statement as proof of financial capacity to build the proposed facility. A Building Permit will not be issued if the Guarantee is not provided. The CEO will monitor the construction phase.

**Conclusions:** Verizon is a well established company with solid financial capacity for this project. Based on this, a Performance Guarantee for construction will not be required. In this case the Removal of Abandoned Wireless Communication Facility is the more important guarantee to protect the Town and will be required. The amount will be based on the estimate of an independent contractor, and the type will be approved by the Board of Selectmen. The Planning Board accepts this signed agreement regarding the requirements to provide a Guarantee for Removal of Abandoned Facility. (See 4.24.21 Letter from Scott Anderson. See 4.13.21 and 5.11.21 Meeting Minutes).

**7.3.D. Inspections:** 1. During construction, a schedule acceptable to the Planning Board for inspections during construction will be established by the CEO. 2. Completed Wireless Telecommunications Facility. a. Inspections of towers by either a Maine Licensed Professional Engineer or a qualified third party mutually agreed upon by the applicant and the CEO shall be performed to assess structural integrity. Such inspections shall be performed as follows: i. Monopole towers - at least once every seven (7) years following completion of construction. The inspection shall take place between the sixth and seventh year of the repeat sequence. b. The inspection report shall be submitted to the CEO within thirty (30) days of its receipt by the tower owner. Based upon the results of the inspection, the CEO may require repair or demolition of the tower. c. The cost of such inspections, reports, repairs or demolition required under this Section of the Ordinance shall be borne entirely by the tower owner. Required repairs shall be completed within ninety (90) days or less as required by the CEO safety reasons. d. Failure to provide required inspection reports in the required time schedule shall be deemed prima facie evidence of abandonment.

**Findings of Facts:** Verizon Wireless has agreed in writing in a letter dated 4.24.21 to the PB to provide information to the CEO regarding the schedule for construction. The CEO will establish a schedule of inspections he will perform during construction. The applicant has, also, agreed to comply with all applicable inspection and reporting requirements for the monopole by an independent Maine Licensed Professional Engineer as required in the Ordinance, **7.3.D.** (See 4.24.21 Letter from Scott Anderson. See 4.13.21 Meeting Minutes).

**Conclusions:** The Planning Board accepts this signed agreement regarding inspections during construction and once the facility is operational as required by this Ordinance, **7.3.D.1. and 2.** (See 4.13.21 and 5.11.21 Meeting Minutes and Verizon Wireless Letter dated 4.24.21).

**7.3.E.** Removal and Storage of Materials 1. All used structural and electronic components shall be removed and properly disposed of once they have exceeded their useful life and are no longer in use. This standard includes, but is not limited to, removing used guy wires, used fence parts, and structural components for towers. 2. Outside storage of materials shall not be permitted except as specifically approved by the Planning Board.

**Findings of Facts:** Verizon has agreed in a signed letter to the Planning Board dated 4.13.21 to remove all unneeded and unnecessary equipment and/or materials from the project area and will otherwise maintain the site in a safe and workmanlike manner. They also agreed in this letter that there will be no outside storage of any materials.

**Conclusions:** The Planning Board accepts this signed agreement regarding removal and storage of materials, **7.3.E.** (See 4.13.21 and 5.11.21 Meeting Minutes and Verizon Wireless Letter dated 4.24.21).

Based on review of the Application and Site Plan submitted on 9.22.20 including the 1.5.21. and 2.23.21 supplements to the Application; consideration of the questions and comments expressed at the Public Hearing; documents submitted into the Public Record; and the documented discussions with and verbal agreement by Verizon's representative, Scott Anderson, to abide by all the Conditions of Approval, the Planning Board made a **Motion that we approve this application as written with the following Conditions of Approval:**

6.2.B(4)(e) Details of the tower base or method of attachment to a structure. If the facility will be attached to an existing building or structure, provide measurements and elevations of the structure. The applicant must provide this to the CEO before a Building Permit can be issued.

6.2.B(4)(j) Road Opening Permit issued by the Otisfield Road Commissioner. Prior to the CEO issuing a Building Permit, a Road Opening Permit must be obtained.

6.2.B(8) and 7.2.L. There will be no disturbance or cutting of trees from June 1 through 31<sup>st</sup> in consideration of the nesting season of the Northern Long-eared Bat.

6.2.B(10) and 7.3.C. Guarantees. All guarantees shall be on a continuous basis, with any provision for cancellation to include that a minimum thirty (30) day notice of cancellation or non-renewal be sent by certified mail to the Town of Otisfield. The guarantee shall be for a minimum term of five years. It must contain a mechanism, satisfactory to the Planning Board, for review of the cost of removal of the structure every five (5) years, and a mechanism for increasing the amount of the guarantee should the revised cost estimate so necessitate;

7.3.C.2 Guarantee for Removal of Abandoned Wireless Communication Facilities.

a. The applicant for a new tower shall post a guarantee in the form of a continuous corporate surety bond in favor of the Town equal to 125% of the estimated demolition and removal cost of the tower and associated facilities if abandoned at any time by the applicant. Estimates of demolition and removal costs shall be provided by an independent contractor and shall not be based on services being provided by Town employees and Town equipment.



b. The amount of the guarantee shall be approved by the Planning Board and shall be sufficient to return the land to a condition as near to the original pre-construction condition as practical as determined by the Planning Board.

c. Unless the landowner requests otherwise, all above ground structures, equipment, foundations, guy anchors, utilities and access roads or driveways specifically constructed to service the tower, structures, equipment or utilities shall be removed, and the land returned to a condition as near to the original pre-construction condition as practical.

d. The type of the guarantee shall be approved by the Board of Selectmen. The Board of Selectmen shall have the authority to require either a certified check payable to the Town of Otisfield, a savings account passbook issued in the name of the Town or a faithful bond running to the Town of Otisfield and issued by a surety company authorized to do business in Maine and acceptable to the Board of Selectmen. \*The Surety Decommissioning Bond must be provided to the CEO and the Town of Otisfield before the CEO will issue a Building Permit.

**7.3.C.3.** Proof of financial capacity to build, maintain, and remove the proposed tower must be submitted.

**7.3.D. Inspections:**

**7.3.D.1** During construction, a schedule acceptable to the Planning Board for inspections during construction will be established by the CEO.

**7.3.D.2 Completed Wireless Telecommunications Facility**

a. Inspections of towers by either a Maine Licensed Professional Engineer or a qualified third party mutually agreed upon by the applicant and the CEO shall be performed to assess structural integrity. Such inspections shall be performed as follows:

i. Monopole towers - at least once every seven (7) years following completion of construction. The inspection shall take place between the sixth and seventh year of the repeat sequence.

b. The inspection report shall be submitted to the CEO within thirty (30) days of its receipt by the tower owner. Based upon the results of the inspection, the CEO may require repair or demolition of the tower.

c. The cost of such inspections, reports, repairs or demolition required under this Section of the Ordinance shall be borne entirely by the tower owner. Required repairs shall be completed within ninety (90) days or less as required by the CEO safety reasons.

d. Failure to provide required inspection reports in the required time schedule shall be deemed prima facie evidence of abandonment.

**7.3.E. Removal and Storage of Materials**

**7.3.E.1** All used structural and electronic components shall be removed and properly disposed of once they have exceeded their useful life and are no longer in use. This standard includes, but is not limited to, removing used guy wires, used fence parts, and structural components for towers.

**7.3.E.2** Outside storage of materials shall not be permitted except as specifically approved by the Planning Board. **RJ/SB – Unanimous**

**The applicant has submitted the letter from the Planning Board requesting a written response for the Public Record, to agree with the Standard Conditions of Approval 7.3.C—E.**

**This Summary of Findings of Facts and Conclusions has been approved by a motion of the Planning Board on May 11, 2021 and will be added to the record of the Application with a copy sent to the applicant.**

**A Letter of Approval with Conditions will be sent to Verizon, represented by Scott Anderson of Verrill Law.**

*Karen T. Turino*

Karen Turino, Chair  
Town of Otisfield Planning Board

05.11.21  
Date