

The regular meeting of the Zoning Board of Appeals of the Town of LaFayette was held May 8, 2007 at 7:30 PM in the Meeting Room of the LaFayette commons Office Building at 2577 Route 11 in the Town of Lafayette

Members Present: Steve Beggs Chairperson
 Bob Drumm Member
 Dan Kuhns Member
 Jerry Doolittle Member

Recording Secretary Mary Jo Kelly

Others present: John Langey ZBA Attorney
 Colman Burke, Verizon
 Catherine Morezak, Applicant
 Paul Palladino, Applicant
 Amy Carroll
 Martin Benz
 Kim Carter
 Nita Morezak
 Jared C. Lusk, Nixon Peabody, LLP
 William Johnson

Chairman Beggs called the meeting to order at 7:45 p.m. He welcomed everyone and had everyone introduce themselves.

Chairman Beggs asked if there were any additions or corrections to the April 10, 2007 minutes. Dan Kuhns had three corrections on the last page which were: Suppression in place of depression, equipment in place of engines and Kuhns in place of Kuhn. There were no further corrections or additions.

Member's Kuhns moved and Doolittle seconded the motion to accept the April 10, 2007 Zoning Board of Appeals Meeting Minutes as corrected and submitted by the Deputy Secretary. Motion passed unanimously.

CASE # 594- Public Hearing for application of Steven and Catherine Morezak for a Use Variance for their property located on Newell Hill Rd. approximately 1.3. miles from the Clark Hollow Rd. and Newell Rd. intersection in an Agricultural/Residential District to permit the erection and operation of a 199.6' telecommunication tower and related equipment. (Tax Map No. 010.-05-01.0).

Chairman Beggs asked counsel to review the legal points of what we are talking about.

John Langey said for the benefit of the public, we have an application for a use variance which traditionally is very difficult to obtain under normal standards of the ordinance. However, there is a special standard that limits this Board's review to whether there is a need and whether

the applicant has placed it in the best place. Most of the Board's focus will be on this standard. The applicant's are present tonight with their attorney. The Board has obtained the services of Mr. Johnson who is a specialist and he provided a written report which is before the Board and he is sure Mr. Johnson will entertain questions from the Board and the public. Again, the standard is much different from what this board typically determines with regards to a use variance.

Chairman Beggs asked the applicant to present their case. Jared Lusk and Colman Burke were present to represent the Morezak's. Back on January 31, 2007 they applied to this Board for a use variance to put a 199.5' or 199.6' tower on the Morezak's property.

Nita Morezak said her notice from the lawyer said it was 195'.

Jared Lusk said it's a 199 ½ ' tower. In 2001 Crown Tower requested a use variance for their tower at this site and it was granted. Cellular technology is a two-way system from the cell phone to the tower and back to the phone. The phone must be able to see the tower. When the phone can't see the tower, its coverage is dropped. That is the problem they see here. Verizon has applied for a 199 ½' at center line tower to put an antenna at 199'. A 150' tower would still leave gaps of coverage. Verizon needs to be at the 199'. During the meeting held in March, the Board requested several things from them. One was whether a 175' tower would provide them with the coverage they need. In the area north of the service area they provide, there is a definite lack of coverage as well as along the edges. To maximize the coverage, Verizon would prefer to maintain the 199 ½' at centerline with the antenna. If the Board prefers a monopole, that is what they will put up at a height the Board would approve. He discussed the location of the tower on the site. It would be put among the trees. At 199 ½' the tower will not be lit. They would put a 12' x 30' shelter in for service of the tower.

John Langey said the Board wondered if the applicant would voluntarily agree not to apply for a Building Permit within the fall zone. This would be so no one would try to put up a structure within the fall zone.

Morezak's would be fine with this.

John Langey said it would be O.K. to put this in as a condition stating no building would be constructed other than the ones needed for use with the tower. Everyone was in agreement with this.

Member Doolittle confirmed the tower will not have to be lit.

Jared Lusk said it definitely will not be. It's less than 200' and not in the FAA fly zone area requiring towers of lesser heights to be lit.

Member Drumm asked if he is sure about this.

Jared Lusk said he is certain.

Nita Morezak said the site is the highest on Newell Hill. On the old application, they advised if the tower was over 190' it had to be lit.

Jared Lusk said if it's over 200'.

Nita asked if they changed this.

Jared Lusk said not as long as he has been around.

Colman Burke said they ran their application through the FAA and FCC who confirmed it would not have to be lit.

William Johnson said a condition could be to put in the approval that if the tower needs to be lit, they would have to come back to the Board for approval.

John Langey said this would be no lighting or striping.

William Johnson said yes.

Jared Lusk said he is aware that Onondaga County Planning Agency recommended denial when in 2001 they took no position. They are asking for a use variance to erect their tower at 199.5' but would be willing to go to 175' if that is what the Board would agree to.

Member Drumm asked about the centerline. He asked if the antenna is included in the 199.5'.

Jared Lusk said yes. It includes the antenna and the lightning rod.

Member Doolittle doesn't see where there's a lot of difference between the coverage at 175' or at 199.6', however, if the Board approved the 175' it might stop someone else from putting their antenna on this tower.

Jared Lusk said this could vary depending on real estate costs, style of tower, etc. They are proposing some more towers in Cazenovia and the Nedrow area. They would not go to the expense of putting a tower in for a slight area that loses coverage.

Member Drum asked if the Board grants this, would Verizon be open to renting more space on the tower to other companies?

Jared Lusk said yes. They have a co-location policy which was submitted with the application. As long as a person is interested in co-locating on the tower and it doesn't interfere with their coverage, and they are willing to help pay for the structure as well as Verizon being allowed to co-locate on their towers if needed, they can co-locate on this tower. They are in agreement to build the foundation for the monopole to support a 199.6' monopole but might only build it to the 175' if that is what the Board approves for now. Down the road, it could be extended if they can obtain the approval.

John Langey said this suggestion was in Mr. Johnson's report. If the Board were willing to grant approval at 175' technology exists today, in the event they max out their co-locate capabilities at 175', that it could be extended with permission of this Board. It seems advantageous for this Board to consider a shorter tower with add-on capabilities at a later date.

Member Drumm asked if this tower is approved at 199', would they have to come back to the Board for approval for another company to co-locate on that tower?

John Langey said yes. Any change to what you agree with now must come back before this Board. The Board has approved a tower before at this site with a bunch of conditions,

Member Drumm asked how close would this situation be to needing and going to eminent domain.

Jared Lusk said they don't have the power for eminent domain. If they can't get someone to lease them the property, there's nothing they can do.

William Johnson introduced himself. He is a professor at the University of Rochester and deals with technology of this matter. His report focused on the necessary elements for approval that John Langey has been discussing. The main issue is that radio frequency coverage is not like a light switch. The signal increases or decreases. He believes the application may cover a little more than what is on the propagation maps. We try to see what the minimum requirements necessary are. They need to have coverage that overlaps the adjacent sites. 175'

would provide this coverage. At 195' there are fewer gaps. They are not severe gaps at 175'. On the 175' coverage, it offers coverage to the main roads that lacked coverage before. If the Board were to approve the tower at 199.6', they would have the better coverage and it would be a stronger signal. He believes a 175' tower would be a good compromise. An extension could be bolted on later if it's needed and approved by the Board. The foundation could be erected to support a 199.6' tower. We don't know at this time if this site would be a good site for other companies to co-locate or not.

John Langey said the report discusses buildout of the network and the tower.

William Johnson said if this community were to grow and everyone bought their cell phones with them, these towers can only handle a certain number of phones. The applicant would be back requesting more towers and smaller ones as they would be needed to service smaller areas of the town.

Member Kuhns asked if it's possible that during that period of time the equipment could be upgraded to handle the problem.

William Johnson said that could happen.

Member Drumm asked if it came to the point this tower was overloaded, could they put another antenna on this tower to handle the overload.

William Johnson said they could put more equipment on this tower to handle the increase in users.

Jared Lusk said the tower is designed to service any predicted growth in the area.

Chairman Beggs asked if different carries operate at different frequencies.

Jared Lusk said yes.

Chairman Beggs said he just wanted to clarify this.

Member Drumm confirmed this is strictly for cell phones.

William Johnson said cell and digital devices. They are expanding to other types of services but are basically all radio waves going to a tower and back.

Jared Lusk said their radio frequency engineer (Greg Hanley) responded to William Johnson's report in a letter dated 5/7/07. The proposal to lower the tower to 175' would be adequate coverage but not ideal. Verizon requires a 195' ACL to achieve adequate and reliable coverage to its desired coverage area. Alternatively, a 175' ACL would provide marginal coverage that would provide adequate and reliable coverage to the bulk of the coverage area but provide less than adequate coverage to the footprint edges of the coverage area.

Chairman Beggs asked for any questions or comments from the public.

Kim Carter is in support of this application.

Catherine Morezak is in support of this application. She spoke to one of the area farmers who would really appreciate it if there was cell phone coverage in the area so he could communicate with the guys when they were out in the fields on the tractors.

John Langey said to be aware this tower would only provide service for Verizon customers.

Martin Benz said he is the landowner nearest to this location. Basically he is looking for more information regarding proximity of the tower to his house. His concerns also deal with the necessity for it. He has Verizon services and experiences no problem with service anywhere on the hill. He would like to know about any potential affect this might have on property value and

the ability to sell his property. He did research this. Something that would work for him would be a visual study showing how the tower would look to him from his property.

Chairman Beggs believes the applicant has provided some visual balloon tests from various locations.

Jared Lusk gave Martin Benz a copy of these pictures to review. He said the tower will be 932' from Newell Hill road so Martin's house is about 680' from the tower.

Colman Burke believes it would be about 900'. If they are 932' from the road and Martin's house is about 60' off the road, it would be about 950 ± from the tower to his house. He said he has seen million dollar homes built around cell towers.

Jared Lusk said his house is right across the street from a cell tower. There's no way to determine property value due to the towers.

Chairman Beggs asked William Johnson if he had any comments about how this would impact real estate value.

William Johnson said that would not be his expertise. There are studies that Verizon has done that these folks might be able to get a copy of.

Colman Burke said there have been studies which really haven't made a determination on real estate value.

Chairman Beggs would think a lack of coverage in an area, if anything, would decrease value. The uglier tower might decrease the value too. If you could obtain coverage and have the tower look the best it can, it would be the best of both worlds.

Jared Lusk said there is a study too that at first people notice the towers but then after awhile they don't notice them so much.

Chairman Beggs asked for any other comments or questions from the public.

There were none.

Chairman Beggs asked the Board if they had any other questions or comments for the applicant or William Johnson at this point in time.

Member Drumm confirmed the applicant would like the tower at 199.6'.

Jared Lusk said that would provide them the coverage they would like to have.

Martin Benz would prefer the 175' tower.

Chairman Beggs asked about the monopole vs. lattice tower.

William Johnson said a lattice tower is stronger. The monopole would be less likely to stand up in a very strong wind.

Jared Lusk said with the lattice tower, the light comes through. With the monopole, there will be a solid structure. If the Board thinks they will grant a 199.6' tower in the future, they would ask the Board to give it to them now so they have the best coverage in the area.

William Johnson said there are examples of both of these towers not far from here.

Member Doolittle asked if the monopole has to be guidewired.

Jared Lusk said no.

Member Drumm asked if a monopole can be added onto bringing it to 199.6'.

Jared Lusk said yes. It's built in sections.

William Johnson said if the applicant requests an extension to the tower, there should be a structural study of the foundation first.

Chairman Beggs asked if the lattice tower needs guidewires.

Jared Lusk said no. It's freestanding.

Chairman Beggs asked if a lattice tower could be added onto down the road.

Jared Lusk said yes.

Martin Benz asked about construction time.

Jared Lusk said it varies depending on the site and if they can get everyone there. If they can get everyone there at once and all the material there on time, it could be done in 3 months. Depending on the contractor, etc., it could be anywhere from 1 to 3 months.

William Johnson said once the material is all on site, it's a matter of a couple of days to erect the tower.

Colman Burke confirmed this is true.

William Johnson said there are a lot of people on site for a short period of time.

Martin Benz asked if there were limitations on the hours they can work during the day.

Chairman Beggs said these parameters could be put into the approval.

John Langey said the Board has put 7:00 a.m. to 7:00 p.m. for construction applications before and no work on Sunday.

Chairman Beggs confirmed construction time for a lattice tower would not be much different from a monopole.

Colman Burke said no.

Member Drumm asked if they would bring in a crane to build it.

Colman Burke said yes.

John Langey said the board can either close the public hearing and move on or not. The Board has named themselves lead agency and he has sent out the notices. No feedback has been received. The long SEQR and Visual EAF will take about an hour. This is a large project. He knows there is also another applicant present.

Chairman Beggs asked if the Board should close the public hearing before the EAF is done.

John Langey said it's up to the Board. Usually the Board closes the public hearing first.

Chairman Beggs has seen discussion occur when doing the environmental review in the past.

John Langey said this is totally up to the Board. He believes when the last SEQR review was done for a tower on this site it was for a tower at 150'. A negative declaration was determined.

Jared Lusk said they are trying to get this going for the construction season this year.

The Board decided to move ahead on the agenda to hear the last application and then return to this application to complete the SEQR process.

Chairman Beggs said if the Board closes the public hearing and if something comes up in the Environmental Review where more information is needed from the applicant, what happens.

John Langey said the Board doesn't have to make a determination tonight and can request more information if needed.

Chairman Beggs said if there are no further questions from the public he will ask for a motion to close the public hearing. There were none.

Member Doolittle moved and Kuhns seconded the motion to close the public hearing. Motion passed unanimously.

The Board moved ahead on the agenda to the next application.

CASE # 595 - Sketch Plan Conference for application for a variance by Paul Palladino for his property located at 6725 Palladino Road approximately 1 mile from the Apulia Rd. and Palladino Rd. intersection in an A/R District to construct a pole barn. (Tax Map No. 006.-03-01.2)

Paul Palladino would like to bring his horses to his property. He is looking to put the pole barn on his property but will fence in about 4 acres on his grandmothers property to put the horses as one day that land will be his. Due to the septic and well, there is no other spot for the barn.

Member Drumm asked why he didn't build the pole barn on his grandmothers land if it will eventually be his and that is where he could keep the horses.

Paul said it's going to be quite expensive already to bring electric to the barn.

John Langey said the trick with the application is that he is picking up the required acreage for a private stable from another parcel. This Board can't change the requirements in the Ordinance. You might be able to put the barn on your property but would not be able to pick up the 4 acres from your property required for a private stable. There is a way to do this. If the applicant's grandmother will sell him the amount of acreage he needs, he could go to the Planning Board for a subdivision and then could come back to this Board for approval for a private stable.

Member Doolittle asked if he could get a 99 year lease for the property.

John Langey said no because you can break a lease.

The applicant will amend his application.

Chairman Beggs said the Board will need a copy of the survey.

Mary Jo will get him a copy of the requirements for a private stable and a subdivision.

Chairman Beggs said as long as he can meet the setback requirements for his pole barn, he can go forward with getting a building permit for it.

The Board returned to Case # 594.

John Langey reviewed the instructions for the Board to follow in doing the SEQR.

The Board reviewed the long SEQR.

The Board reviewed the Visual EAF.

Member Doolittle said a tower is a tower. The 25' difference between 175' and 199.6' doesn't really matter to him. The coverage is probably better at the 199.6' for Verizon and future carriers. He would recommend going with the 199.6' tower.

Member Drumm agreed.

Member Kuhns agreed. He would rather resolve it now and not have someone come in and request an expansion to 185' and end up back here again.

Member’s Drumm moved and Doolittle seconded the motion to go with a 199.6’ lattice tower. Motion passed unanimously.

**TOWN OF LAFAYETTE ZONING BOARD OF APPEALS
SEQRA RESOLUTION AND NEGATIVE DECLARATION**

DATED MAY 8, 2007

**SYRACUSE SMSA LIMITED PARTNERSHIP
d/b/a Verizon Wireless/STEVEN and CATHERINE MOREZAK
(Newell Hill Road)**

Mr. Drumm moved and Mr. Doolittle seconded the following Resolution:

WHEREAS, Syracuse SMSA Limited Partnership d/b/a Verizon Wireless and Steven and Catherine Morezak (Applicant) have made application to construct and operate a wireless telephone transmitting facility on property to be leased from Steven and Catherine Morezak located on Newell Hill Road in the Town of LaFayette, bearing Tax Map No. 10.00-05-01.0; (the Acell site@);

WHEREAS, the proposed action consists of the erection, construction and operation of a 199.5' lattice and antenna array, together with associated appurtenances, related equipment, fencing and landscaping as more particularly shown on the site plan submitted by the applicant, as prepared by Tectonic Engineering & Surveying Consultants P.C. and consisting of the following drawings:

<u>Title Page</u>	<u>1/29/07</u>
<u>Partial Topographic Survey</u>	<u>12/22/06 last revised 1/24/07</u>
<u>Setback Plan</u>	<u>1/29/07</u>
<u>Site Plan & Notes</u>	<u>1/29/07</u>
<u>Site Detail Plan, Elevation, Details & Notes</u>	<u>1/29/07</u>
<u>Details</u>	<u>1/29/07</u>
<u>Shelter Elevations</u>	<u>1/29/07</u> ;

and

WHEREAS, Volume 6 N.Y.C.R.R., Sections 617.3 and 617 of the Regulations relating to Article 8 of the New York Environmental Conservation Law of New York (SEQRA), requires that as early as possible after submission of a completed application, an involved agency shall make a determination whether a given action is subject to the aforementioned law; and

WHEREAS, on April 10, 2007, the Town of LaFayette Zoning Board of Appeals (the ABoard@) declared itself to be lead agency, identified involved agencies for and determined this application to be an unlisted action for purposes of SEQR review; and

WHEREAS, the Board circulated lead agency notices to all involved agencies on or about April 11, 2007 and no objections or environmental comments were received by the Board, and the Board hereby confirms that is shall act as lead agency for purposes of environmental review of this application; and

WHEREAS, the applicant has completed and submitted a Long Form Environmental Assessment Form and a Visual Environmental Assessment form and the same have been reviewed and considered by the Board; and

WHEREAS, the applicant was required to perform and submit digital photographic simulations of the potential esthetic impact the proposed action would create at the alternate sites if approved and the same have been completed and reviewed by this Board; and

WHEREAS, the Board has reviewed and considered all of the submissions by the applicant and those individuals who have expressed concern and opposition to the proposed action and the Board has considered and discussed fully the potential environmental impact of the proposed action.

NOW, THEREFORE, BE IT RESOLVED, that the Town of LaFayette Zoning Board of Appeals hereby determines the proposed action will not have a significant adverse effect on the environment and this resolution hereby adopts the Negative Declaration attached hereto for purpose of Article 8 of the Environmental Conservation Law, Volume 6 of the N.Y.C.R.R. Part 617 et seq. for the reasons contained herein and in the appended Attachment AA@; and

BE IT FURTHER RESOLVED, that the Town=s legal counsel, distribute the attached Negative Declaration pursuant to the requirements of 6 N.Y.C.R.R., Part 617.

The question of the adoption of the foregoing resolution was duly put to a vote and upon roll call, which resulted in the following:

Mr. Robert Drumm	Voting	AYE
Mr. Jerry Doolittle	Voting	AYE
Mr. Dan Kuhns	Voting	AYE
Mr. Stephen Beggs, Chairperson	Voting	Aye

The Chairperson, Mr. Beggs, then declared the Resolution to be duly adopted.

NEGATIVE DECLARATION

**NOTICE OF DETERMINATION OF
NO SIGNIFICANT EFFECT
ON THE ENVIRONMENT**

**Syracuse SMSA Limited Partnership d/b/a Verizon Wireless
(Owners Steven and Catherine Morezak)
Use Variance for 199.5' Wireless Telephone
Transmitting Facility (Lattice Design)
(Newell Hill Road, LaFayette, NY)**

TO ALL INTERESTED AGENCIES, GROUPS AND PERSON:

In accordance with Article 8 (State Environmental Quality Review) of the Environmental Conservation Law (the **Act**), and the statewide regulations under the Act (6 NYCRR Part 617) (the **Regulations**), the Town of LaFayette Zoning Board of Appeals (the **Agency**) has received an application from Syracuse SMSA Limited Partnership d/b/a Verizon Wireless (owners Steven and Catherine Morezak) in connection with the proposed Project described below. As a result of a thorough review of the proposed Project and consideration of the potential adverse environmental impacts associated with the Project during its regularly scheduled meeting on May 8, 2007, the Agency has determined: (i) that said proposed Project is an **Unlisted Action** pursuant to the Regulations; (ii) that the Agency has appropriately engaged in its own environmental review of the Project; (iii) that the Project will result in no major adverse environmental impacts, and, therefore, will not have significant adverse effect on the environment; and (iv) that an environmental impact statement is not required to be prepared with respect to said Project; **THIS NOTICE IS A NEGATIVE DECLARATION FOR THE PURPOSES OF THE ACT.**

1. Agency:

The Agency is the Town of LaFayette Zoning Board of Appeals (**Board**).

2. Person to Contact for Further Information:

**Mr. Stephen Beggs, Chairman, Town of LaFayette Zoning Board of Appeals,
5812 Winacre Drive, LaFayette, NY 13084
Telephone Number: (315) 677-3674.**

3. Project Identification:

Syracuse SMSA Limited Partnership d/b/a Verizon Wireless (owners Steven and Catherine Morezak) presented an application to the Agency requesting that the Agency approve a use variance for erection and operation of a 199.5' wireless telephone transmitting facility (lattice tower design) on property leased from Steven and Catherine Morezak located on Newell Hill Road in the Town of LaFayette, New York.

4. Project Description:

The Project entails the erection of a 199.5' lattice tower structure and antenna array together with associated appurtenances and related equipment, landscaping and building as more particularly depicted on the site plan submitted by the applicant, as prepared by Tectonic Engineering & Surveying Consultants P.C. dated 1/29/07, as last revised.

5. Project Location:

The Project is located on Newell Hill Road in the Town of LaFayette, Onondaga County, New York bearing property identification No. 10.00-05-01.0.

6. Reasons for Determination of Non-Significance:

As proposed, the reasonably anticipated environmental effects of the Project will not be significant. This conclusion results from the thorough evaluation of the proposed Project and its potential environmental effects against the criteria provided under the Regulations at 6 NYCRR '617.7(c). See Attachment "A".

DATED: May 8, 2007

Town of LaFayette Zoning Board of Appeals

By:

Stephen Beggs, Chairman

ATTACHMENT "A"

REASONS SUPPORTING THE NEGATIVE DECLARATION FOR THE SYRACUSE SMSA LIMITED PARTNERSHIP D/B/A VERIZON WIRELESS

**USE VARIANCE FOR WIRELESS TELEPHONE TRANSMITTING FACILITY
(NEWELL HILL ROAD, LAFAYETTE, NY):**

1. **Air, Water, Noise, Waste, Erosion, Drainage, Site Disturbance Effects:** The Project will not create any adverse change in the existing air quality, water quality or noise levels, nor in solid waste production, nor create potential for erosion, nor promote flooding or drainage problems. The Project will produce a minimal disturbance of soil and vegetation, with minimal storm run-off.
2. **Aesthetics, Agriculture, Archeology, History, Natural or Cultural Resource, Community or Neighborhood Character:** The Project will not adversely affect agricultural, archeological, historical, natural, or cultural resources. The Project involves provision of a service which necessarily will impact aesthetics but has been designed to limit that impact and is not present in a known protected view shed.
3. **Vegetation, fish, Wildlife, Significant, Habitats, Threatened or Endangered Species:** No plant or animal life will be adversely affected by the Project.
4. **Community Plans, Use of Land or Natural Resources:** The Project is not adverse to official community plans and goals and will have no adverse effects on land-use or the use of natural resources by or in the community.
5. **Growth, Subsequent Development, etc.:** The Project will not induce any significant or adverse growth or subsequent development.
6. **Long Term, Short Term, Cumulative, or Other Effects:** The Project will not have any significant adverse long term, short term, cumulative, or other environmental effects.
7. **Critical Environmental Area:** The Project will not have an impact on any Critical Environmental Area as designated in 6 NYCRR, Subdivision 617.14(g).

**RESOLUTION OF THE ZONING BOARD OF APPEALS
OF THE TOWN OF LAFAYETTE**

No. 594 -- SYRACUSE SMSA LIMITED PARTNERSHIP d/b/a VERIZON WIRELESS - Appeal for Use Variance for Construction and Operation of 199.5' Wireless Telephone Transmitting Facility with

Appurtenances on Premises Located on Newell Hill Road in an Agricultural District - GRANTED

May 8, 2007

Robert Drumm moved and Jerry Doolittle seconded the following Resolution:

WHEREAS, Syracuse SMSA Limited Partnership d/b/a Verizon Wireless (AVerizon@), as proposed lessee, and Steven and Catherine Morezak, as owner (collectively the AApplicant@) has made application to construct and operate a 199.5' wireless telephone transmitting facility on property owned by Steven and Catherine Morezak and located on Newell Hill Road in the Town of LaFayette, bearing Tax Map No. 10.00-05-01.0, in an Agricultural-Residential District; and

WHEREAS, the proposed action consists of a 199.5' tower of lattice design and antenna array, together with associated appurtenances and related equipment, fencing and landscaping as more particularly shown on the site plan submitted by the applicant, as prepared by Tectonic Engineering & Surveying Consultants P.C. and consisting of the following drawings:

<u>Title Page</u>	<u>1/29/07</u>
<u>Partial Topographic Survey</u>	<u>12/22/06 last revised 1/24/07</u>
<u>Setback Plan</u>	<u>1/29/07</u>
<u>Site Plan & Notes</u>	<u>1/29/07</u>
<u>Site Detail Plan, Elevation, Details & Notes</u>	<u>1/29/07</u>

<u>Details</u>	<u>1/29/07</u>
<u>Shelter Elevations</u>	<u>1/29/07</u>

and;

WHEREAS, the Board has the power to grant use variances subject to State and Federal mandates and Article VI of the 1970 Town of LaFayette Zoning Ordinance, as amended; and

WHEREAS, a public hearing on the application was held by the Board at its regular meeting of May 9, 2007 to review the various submissions made by the applicant and to hear comment from the applicant and the public; and

WHEREAS, the Board has reviewed numerous comments and materials from both the applicant and the public; and

WHEREAS, the application was referred to the Syracuse Onondaga County Planning Agency (ASOCPA@) for review and comment pursuant to General Municipal Law 239-m and said Board having issued its resolution recommending denial of the application; and

WHEREAS, the reasons provided by SOCPA included the comment that the proposal did not provide for a sufficient Afall zone@ and the Board finds the concern for a sufficient fall zone has been satisfactorily addressed by the applicant, such that this resolution shall over rule the SOCPA recommendation for a denial; and

WHEREAS, the applicant has demonstrated that an FCC licensed provider of wireless services will provide such services at the wireless telephone facility, such that the facility may be deemed a Apublic utility facility@ as that term has been used in decisional case law; and

WHEREAS, the applicant must demonstrate the necessity for the telecommunications facility to an FCC licensed telephone service provider to provide adequate wireless telephone service to the public; and

WHEREAS, the Board has engaged the services of a qualified RF Engineer (Dr. William Johnson), who has issued a written report to the Board dated May 3, 2007, which report has been reviewed by the Board; and

WHEREAS, the Board in accordance with the State Environmental Quality Review Act (SEQR) has previously, on this date, made a determination of no environmental significance; and

WHEREAS, the applicant=s application was considered fully by the Zoning Board of Appeals and upon such consideration the Board found among other thing that:

- 1. Verizon has established the need for a telecommunications facility as an FCC licensed wireless telephone service provider, to provide adequate wireless telephone service to the public for the portion of its network centered in and around the eastern corridor of the Town of LaFayette (Route 20).**
- 2. Verizon has demonstrated the limited flexibility with respect to where the facility can be located to provide the needed service.**

3. **The Town=s retained consultant has verified the technical data and information and conclusions of such information submitted by the applicant.**
4. **Verizon has demonstrated that there is no other tower or existing structure located within or near this portion of its network available for shared use and/or which would provide an adequate level of service to that portion of its network.**
5. **Verizon has demonstrated that the proposed telecommunications facility is inert, that it will not generate noise, odor, vibration or significant traffic. Portions of the facility may be visible from some viewpoints, due to its height, but that the visual impact has been minimized by placing the facility in a sparsely populated, and substantially wooded area, located a relatively significant distance from residences, low enough to avoid FAA aviation lighting requirements. The Project is sited so as to minimize the visual impact of the tower to the maximum extent practicable.**
6. **The proposed site will be visited by a technician only once or twice a month, and therefore will have no impact upon traffic conditions in the area, and virtually no impact on surrounding properties.**
7. **Because of the frequency and power limitations imposed by the FCC, the proposed telecommunications facility will have virtually no potential for interference with other radio frequency signals or any consumer electronic devices.**
8. **Verizon will comply with all applicable FAA regulations.**
9. **Verizon has demonstrated that the Project meets the standards necessary for a use variance under applicable New York law for public utility service by demonstrating that it will be used by a properly licensed public utility provider for the transmission of a public utility service; that there is a need for that service; and that the Project is necessary to render safe and adequate service, and there are compelling reasons, economic or otherwise, which make the proposed Project the most feasible alternative.**

NOW, THEREFORE, BE IT RESOLVED, that the Town of LaFayette Zoning Board of Appeals hereby allows and grants the applicant=s request for a use variance for construction and operation of a 199.5' wireless telephone transmitting facility (of lattice design) together with associated appurtenances, equipment, fencing and landscaping subject, however, to the following conditions:

1. **The applicant obtain and file with the Town all required approvals from the County and/or New York State Department of Transportation and Town Highway Department.**

- 2. All remaining engineering and legal fees associated with the review of the application be paid prior to construction and issuance of building permit.**
- 3. This resolution shall be null and void in the event that for any six month period the applicant fails to locate an FCC licensed provider on said tower. Such six month period shall be deemed an abandonment of the use and the applicant will be required to reapply to the Zoning Board of Appeals for a new use variance.**
- 4. Construction and operation shall be in strict accordance with the plans prepared by Tectonic Engineering and dated 1/29/07 as last revised.**
- 5. The tower structure shall be of a lattice design with a gray color per Town of LaFayette Local Law 1 of 1997. The proposed facility shall be bordered by an six (6) foot chainlink fence in compliance with said law. No portion of the tower or its appurtenances shall exceed 199.5' from the ground.**
- 6. The applicant shall provide a secure facility including anti-climbing measures.**
- 7. The applicant shall place on file a detailed landscaping plan including identification of existing and proposed landscaping measures. The applicant will maintain the facility pursuant to its maintenance plan as submitted along with a schedule for painting, trimming, building maintenance and shall keep the access road in good order.**
- 8. The access road to be provided shall be of gravel construction.**
- 9. The applicant shall keep on file with the Town and local fire department detailed construction elevations, descriptions and dimensions of surrounding vegetation, including tree species for the proposed site. The applicant in construction and operation of the facility shall preserve as much vegetation as possible and shall limit the cutting of any and all trees on the site in order to provide for maximum screening. Any trees necessarily cut shall be disposed of onsite if not large enough for timber or recycled for other uses.**
- 10. The applicant will provide evidence of an agreement with the owner of the parcel limiting the owner=s ability to cut surrounding trees which provide visual mitigation and shall have a copy of such agreement on file with the Town.**
- 11. The applicant shall post a bond in the amount of \$30,000 for reclamation purposes and shall renew said bond for a period for as long as the facility is in use and exists on the site. Said bond shall be on file with the Town Hall. It is specifically conditioned that a review shall take place by the Town every**

three years to determine whether the bond amount is sufficient to cover the cost for reclamation and the applicant will take necessary measures to keep the bond in place.

- 12. The applicant agrees to provide its tower for co-location of other similar facilities at a reasonable expense and that the applicant has represented to the Board that it desires to allow its facility for co-location purposes.
- 13. The applicant shall provide to the Town updated structural engineering reports on a two year basis confirming the tower and the facilities continue to meet all structural safety standards and remain undamaged.
- 14. The proposed use shall not be increased and it is agreed by the applicant that the proposed use shall not be increased in height or occupation unless further approval from this reviewing board is first obtained.
- 15. All additional co-locations shall be consistent with the Town of LaFayette Zoning Ordinance and local laws.
- 16. There shall be no lighting or striping of the approved structure.
- 17. Construction shall be limited to Monday through Friday, 7:00 a.m. to 7:00 p.m.
- 18. The property owners and applicant shall be prohibited from erecting or allowing the erection of structures not necessary for the proposed use within 200' of the tower structure.

The question of the adoption of the foregoing resolution was duly put to a vote and upon roll call, which resulted in the following:

Mr. Robert Drumm	Voting	AYE
Mr. Jerry Doolittle	Voting	AYE
Mr. Daniel Kuhns	Voting	AYE
Mr. Stephen Beggs, Chairman	Voting	AYE

The Chairperson, Mr. Beggs, then declared the Resolution to be duly adopted.

Member’s Drumm moved and Doolittle seconded the motion to adjourn. Motion passed unanimously.

The Zoning Board of Appeals Meeting adjourned at 10:34 p.m.

Respectfully submitted,
Mary Jo Kelly, Secretary.

Adopted 6/12/07

