

**STATEMENT IN SUPPORT OF APPLICATION  
FOR A  
SPECIAL PERMIT WITH SITE PLAN APPROVAL**

**Applicant:** Bell Atlantic Mobile of Massachusetts Corporation Ltd. d/b/a Verizon Wireless ("Verizon Wireless" or "Applicant").

**Subject Parcel:** 21 New Lane, Assessor's Map 31, Lot 48 ("Subject Property")

**Zoning District:** RU

**Proposed:** Install a new Personal Wireless Service Facility, with associated ground equipment, on a portion of the Subject Property.

**Requested:** A Special Permit with contemporaneous Site Plan Approval pursuant to Sections 8.8, 9.2, 6.1 and other applicable sections of the Town of West Tisbury Zoning Bylaw ("Bylaw") and the Telecommunications Act of 1996, 47 U.S.C. 332(c)(7)(B).

**Date:** July 20, 2012

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**I. DESCRIPTION OF PROPOSED INSTALLATION**

Verizon Wireless proposes to install a new Personal Wireless Service Facility ("PWSF") with associated ground equipment on a leasehold portion of the Doane property located at 21 New Lane.

Verizon Wireless currently has two wireless installations in West Tisbury, one at the airport and another on the DEM Fire Tower. The proposed site on New Lane will serve to close the significant gaps in coverage that currently exist between these two other "on air" locations.

The Subject Property was chosen for its relative seclusion from neighboring properties. It consists of approximately twenty acres of largely wooded terrain. A site compound located in the interior of the Subject Property will hardly be noticed or even visible from off-site.

The proposed facility will consist of a monopine style tower, fitted with hidden antennas, and an equipment shelter situated on-grade at the base of the proposed tower. The entire compound will then be surrounded by a locked and secured wooden stockade fence to prevent access but also to provide additional visual screening.

The height and style of the tower was discussed by the Applicant's Radio Frequency ("RF") Engineers at great length prior to filing this petition. Although a greater height would be desirable, the Applicant has decided that, in the interest of providing the least obtrusive installation possible, an RF compromise (sacrifice) would be warranted to arrive at pole heights and designs worthy of approval with the least amount of controversy. In addition, because the Zoning Bylaw specifically mandates the submittal of multiple alternate sites, which may vary in height, style, and location, the Applicant is respectfully submitting multiple sites, with multiple heights and different styles, all for the Board's consideration. Although none could be considered "ideal" from an RF perspective, in the spirit of compromise any one of the submitted sites and alternatives could work and will work for the Applicant. In the end, the Applicant is interested in getting on air quickly while maintaining its goodwill with the residents and Board members of West Tisbury.

The trade-off between a taller tower and a shorter tower is one of both coverage and co-location ability. A taller tower would provide better coverage for Verizon Wireless to connect to the Airport and Fire Tower sites while maximizing its coverage to all of the various neighborhoods and areas in between. A taller tower would also allow for additional space below Verizon Wireless' antennas to be rented to other carriers and competitors for their installations as well. As tower height is lowered, not only does Verizon Wireless' coverage suffer, but the ability to offer space to other carriers is sacrificed as well.

If the Applicant were an independent tower developer simply looking to maximize its revenue through the most co-locations for the least tower cost we would be applying for a 150 foot tall conventional monopole tower. Instead, because Verizon Wireless is primarily concerned with satisfying its own coverage objectives, minimally invasive, visually unobtrusive installations, of both a monopine (fake pine tree) as well as a simple stealth pole (antennas hidden inside), are proposed. While a taller pole would work better, in the interest of minimizing controversy the Applicant has respectfully whittled its height down to the bare minimum.

The equipment shelter is proposed to be a custom shingle-style one-story building with a pitched roof. Inside that shelter will be two rooms - one to house the Applicant's radio equipment and the other to house a self-contained emergency stand-by power generator. The entire installation will operate off of land-line power brought back to the site underground, but the generator will be there to ensure continuous operation should a blackout or power failure occur in the neighborhood.

The facility itself will be very easy to construct and will require approval of a very uncomplicated Site Plan. In a nutshell, a foundation is poured and buried. The monopole tower then bolts to that foundation, which acts a big counter-weight to keep the pole upright. Antennas are affixed to the tower and the equipment shelter is placed at the base of the tower inside a fenced site compound. The entire installation is less complicated, and requires less labor to build, than that of a typical, modest single-family home.

The compound will be accessed from a new spur off of the existing driveway that currently leads into the Subject Property. No new curb cuts will be required. In fact, the existing

driveway off New Lane will be used for the majority of the distance back to the site until, by necessity, it must fork off and head to the tower compound. Any new portions of driveway as such will be treated with pervious material so as to not impact or affect existing storm water runoff paths in any manner. The Subject Property is relatively flat, with gradual drops in grade to the west and south, so no significant cuts and fills will be required for construction of the proposed facility.

The current landowners (the Doane Family) are descendants of Experience Luce and have had the Subject Property in their family continuously since 1716, for almost 300 years. While the original land area was larger and has since been subdivided off into various parcels, the host parcel upon which Verizon Wireless proposes to build its facility is part of the original tract. The Applicant's landlords, therefore, are not newcomers to the Island. Their family's ownership pre-dates those of many of the other abutting lots and parcels along New Lane and beyond. The Doane family recognized the simple, uncomplicated and minimally invasive nature of the proposed installation and thought entering into a lease with the Applicant for such a facility would be a wonderful way to garner some additional income from their primarily undeveloped remaining property.

Verizon Wireless' activities on site will create a minimal amount of disruption. Once complete, the site will host no employees or customers and produce no nuisance of any kind. An inanimate object in the woods is all that is proposed.

## **II. SECTION 8.8 PERSONAL WIRELESS SERVICE FACILITIES**

In order to demonstrate the Applicant's compliance with the West Tisbury Zoning Bylaw ("Bylaw") the specific provisions of the Bylaw governing wireless installations are enumerated (*in italics*) with the Applicant's responses thereto (in plain text) as follows:

### **8.8-5 Tiered Applications**

- A. *The ZBA Administrator or his/her designee shall receive all PWSF applications and assign each application to one of the following three "tiers":*
1. *Tier One. This tier is limited to applications that:*
    - a. *Place PWSFs on new or existing utility poles within public and private rights of way.*
    - b. *Meet the required Location Standard and Safety Standards that apply in this Bylaw. In the event any of the standards in the Bylaw are in conflict for a particular application, one or the other conflicting standard shall be met.*

Not Applicable.

2. *Tier Two. This tier is limited to applications that:*
  - a. *Attach a PWFS to an existing structure other than a new utility pole (as described in this Bylaw in Section 8.8-24 KK).*

- b. Meet all Location Standards, Design Standards and Safety Standards in this Bylaw. In the event any of the standards in the Bylaw are in conflict for a particular application, one or the other conflicting standard shall be met.*

Not Applicable.

- 3. Tier Three. All applications that do not qualify as either Tier One or Tier Two status shall be considered Tier Three applications.*

The Applicant is proposing a new free-standing stealth tower installation which is therefore considered Tier Three.

- B. Planning Board. The Planning Board shall receive copies of all complete PWSF applications and may submit a written report in accordance with Town's existing Zoning Bylaws, Section 9.2-1.D.*

Understood. The Applicant welcomes the Planning Board's comments and feedback and is willing to meet personally with that Board to discuss and clarify this Application if that Board so desires.

**8.8-6 Application Procedures.** *Applicants and the ZBA Administrator shall use the following procedures when reviewing PWSF applications, although the ZBA may waive some steps if they are redundant.*

Pursuant to this Section the Applicant respectfully requests certain waivers as enumerated in the materials that follow.

- A. Pre-Application Conference. Applicants shall contact the ZBA Administrator prior to submitting an application for a PWSF.*

- 1. The Applicant shall inform the ZBA Administrator of the location of the proposed facility, as well as its scale and design.*

This has been done as the Applicant has had preliminary discussions with the ZBA Administrator.

- 2. The ZBA Administrator shall inform the applicant about the application procedures.*

This has been done.

*3. A pre-application conference between the proposed applicants and the ZBA should be scheduled prior to the submission of the application for a PWSF. The purpose of such conference is to foster preliminary discussions regarding planning design and siting of the proposal among the applicants, the ZBA and the town residents.*

The Applicant held a pre-application conference with the ZBA on February 9, 2012.

***B. Application Form.*** *The applicant shall submit a completed application form and all required items as specified in this Bylaw to the ZBA when applying for PWSF's.*

See enclosed Application Form included in this application binder. All required items have been submitted, except where asked to be waived.

***C. Tier–One Review.***

Not Applicable.

***D. Tier Two and Tier Three Review.***

*1. The ZBA shall notify or cause to be notified all property owners within 500 feet of the property lines of a proposed application.*

Understood.

**8.8-7 Co-locations.**

Although this particular Section is Not Applicable the Applicant is indeed offering space for co-location on its proposed facility.

**8.8-8 Standards.** The approval of PWSFs shall be subject to meeting or exceeding the following standards.

***A. Location Standards***

*1. The only mandatory location standard shall be that Tier One PWSFs will be permitted only in existing or approved public or private rights-of-way.*

Not Applicable. Tier Three is proposed.

2. *Opportunity Sites. A PWSF should be located at one of the following Opportunity Sites:*
  - a. *New utility poles in the public or private right-of-way, provided such utility poles are no higher than 50 feet AGL, including antennas.*
  - b. *Churches.*
  - c. *Commercial and industrial buildings.*
  - d. *Light Industrial District 2 located on the map entitled "Zoning Map of West Tisbury, Massachusetts".*

The proposed site is not located in any of the above "opportunity" locations.

3. *Avoidance Areas. A PWSF shall not be located in the following Avoidance Areas: (**emphasis added**)*
  - a. *Schools, nursery schools, playgrounds or child care centers.*
  - b. *Single family homes.*

Although the Applicant's facility is proposed to be located in a residential area, it is *not* proposed to be located *in* a single family *home* hence its location is not an "avoidance area" as herein defined.

4. *In all stances except for Sections 8.8-8.A-1 and 8.8-8A.3, above, these location standards shall be considered directory but not mandatory. PWSFs may also be permitted in areas that are not Opportunity Sites subject to the following siting, design and safety standards and permitted in Avoidance Areas subject to the following siting, design and safety standards.*

Understood. Because the Applicant's proposed installation is in neither an enumerated Opportunity Site nor Avoidance Area the Bylaw's siting, design, and safety standards shall control.

5. *These standards apply regardless of radio frequency (RF) engineering considerations.*

The Applicant respectfully cautions the Board that "radio frequency engineering considerations" are the only reason a site is even being proposed in this location in the first place. If the final permitted design results in a site that does not function properly, then an "effective prohibition" could result thereby violating certain protective provisions of the Telecommunications Act of 1996. (47 U.S.C. 332(c)(7)(B)(i)).

***B. Siting Standards. PWSFs should meet the following siting standards. These standards are directory, not mandatory.(emphasis added)***

1. *To the **greatest extent possible**, PWSFs should be concealed within existing structures or where camouflaged conditions surround them, or on inconspicuous mounts. (emphasis added)*

In keeping with this provision the Applicant is proposing to conceal its antenna mounts within the camouflaged branches of a faux pine tree, also known in the wireless industry as a "monopine." A monopine is one type of monopole that is concealed or camouflaged to the *greatest extent possible*.

Another alternative being proposed is to conceal the antennas inside a stealth pole type of installation where antennas are flush mounted to a conventional monopole which is then covered with sheathing canisters to hide the antennas. This type of installation also strives to camouflage and conceal the antennas to the "greatest extent possible."

2. *Placement within trees should be encouraged.*

The proposed site is buffered from neighboring residences by trees and in fact is proposed to be disguised as a tree itself.

3. *Roof-mounted PWSFs should not project more than ten additional feet above the height of a legal building.*

Not Applicable.

4. *Side-mounted PWSFs should not project more than forty-two inches from the face of the mounting structure.*

Not Applicable.

***C. Design Standards. PWSFs should meet the following design standards.***

1. *Color. All Tier One or Tier Two PWSFs should be painted or camouflaged to match the host structure color.*

Not Applicable. Tier Three is proposed.

2. *Size. The silhouette of the PWSF should be reduced to the minimum visual impact.*

The Applicant is proposing a stealth monopine installation specifically to minimize visual impact.

3. *PWSFs within 100 feet of a residential building should either:*
  - a. *Provide underground vaults for equipment shelters, or*
  - b. *Place equipment shelters within enclosed structures approved by the Town.*

Not Applicable. The nearest off-site residential building from the Applicant's preferred location, shown as Location A on the enclosed plans, is almost 500 feet away. Verizon Wireless' landlord has a residential building on site that is over 250 feet away. It is interesting to note, however, that this section implies that a PWSF *may* be located within close proximity (i.e. within 100 feet) of a residence, although that is not what is being proposed here.

4. *Equipment. The following types of equipment are discouraged except when in the Light Industrial District 2:*
  - a. *Roof-mounted monopoles, lattice towers or guyed towers.*
  - b. *Ground-mounted lattice towers.*
  - c. *Ground-mounted guyed towers.*

Not Applicable. The Applicant is not proposing any of the above.

5. *Antennas, including panels, whips, dishes and any array holding several antennas, should be kept as close to the mount as possible.*

In the present instance the Applicant is proposing to hide or "stealth" its antennas within the cover and faux foliage of a monopine, or inside the sheathing of a stealth pole.

6. *Height.*
  - a. *Heights of ground mounted PWSFs located in the Light Industrial District 2 should be no higher than 125 feet AGL, including antennas.*

Not Applicable. Applicant is not proposing an installation in the Light Industrial zoning district.

- b. *All ground-mounted PWSFs not located in the Light Industrial District 2 should be no higher than 80 feet AGL, including antennas. All ground-*



*mounted PWSFs not located in the Light Industrial 2 (including any security barrier), should be surrounded by nearby dense tree growth for a radius of 20 horizontal feet (when trunk centerlines are measured on the ground) from the PWSF in any direction. These trees can be existing on the subject property or installed to meet the 20 foot requirement as part of the proposed PWSF or they can be a combination of both. These ground-mounted PWSFs may project up to 15 feet above the ambient tree height.*

The Applicant is proposing a monopine, with an underlying base pole and antenna tops, situated at 80 feet tall, which was discussed at our pre-application conference to be the maximum allowed unless the existing tree canopy exceeded 65 feet, which it does not. This height is necessary for the Applicant to properly propagate its signal and close significant gaps in coverage that currently exist in its network in the surrounding neighborhood. An optional 80 foot tall stealth pole is also offered for the Board's consideration. It must be pointed out that the very tip-top of the monopine's branches are designed to actually extend beyond 80 feet slightly in order to give the monopine a more natural, tapered appearance. This can be removed if the Board prefers no part of the "tree" extend beyond 80 feet. A 70 foot tall monopine (with branch tapers extending slightly above) is also offered for the Board's consideration. Photosimulations of all of these options are included in this Application package. A taller height would allow the facility to be utilized by additional co-locators while a lower height would have the effect of prohibiting the Applicant's service and also prohibit other co-locators from utilizing the structure in the future. A wireless tower needs to be a certain minimum height above ground ("AGL") to enable it to work properly. That height is determined by surrounding topography, morphology, distances to other surrounding sites and coverage objectives.

- c. Tier One utility poles should be no higher than 50 feet AGL, including antennas.*

Not Applicable.

*7. These standards apply regardless of RF engineering considerations.*

As stated previously, "radio frequency engineering considerations" (i.e. the need to close a significant coverage gap in an FCC licensee's network) are *the only* reasons a site is even being proposed in the first place. If the final permitted design results in a site that does not function properly, then an "effective prohibition" could result thereby violating certain protective provisions of the Telecommunications Act of 1996. (47 U.S.C. 332(c)(7)(B)(i)).

**D. Safety Standards. PWSFs must meet the strictest of the following safety standards.**

1. *Wind load and ice load design standards shall be those of EIA-TIA 222 (Version G).*
2. *Safety standards of the Town.*
3. *Safety standards of the Commonwealth of Massachusetts.*

Understood. The Applicant is in any case required to abide by the foregoing to obtain a Building Permit.

**8.8-9 Fall Zone and Setback Requirements**

**A. Fall Zone**

1. *Light Industrial District 2: No habitable structure or outdoor area where people congregate shall be within a fall zone, which is the height of the Tier Three PWSF plus 10 feet.*
2. *Districts other than Light Industrial 2: No habitable structure or outdoor area where people congregate shall be within a fall zone, the radius of which is two times the height of a Tier Three PWSF, including its mount.*
3. *In all Districts: No abutting property line may be within the fall zone of a radius equal to the height of a ground-mounted PWSF plus 30 feet, including its mount. Tier One poles are exempt from this provision.*

The Applicant's site of first choice (Location A) meets all of the foregoing distances without variance. The monopine is proposed to be located 224 feet from the nearest abutting property line and almost 500 feet from the closest off-site habitable structure or area of human congregation. The Applicant's second alternate site location on the same subject property (Location B) provides similar setbacks of 209 and over 500 feet respectively. Location C is able to provide the fall zone and distance to habitable structures without variance. An ambiguity may exist relative to the twice the height to an "outdoor area where people congregate" as the corner of an abutting lot is located 138 from Location C. For this reason Location C is the least preferred location offered. Structures and outdoor areas on the host Subject Property are located closer, but the underlying landowners (Verizon Wireless' landlord) have implicitly authorized such proximity by agreeing to host the proposed installation on their property.

## **B. Setback**

1. *All PWSFs, including mounts and equipment shelters or cabinets, shall comply with the setback requirements on all sides of the lot of the applicable zoning district as set forth in the Town Zoning Bylaw.*
2. *On parcels with a main building housing a primary use, all components of the PWSF shall be located behind the main building line in the front yard.*
3. *No portion of any PWSF shall project into a required setback, including the antenna array.*

Understood. The proposed installation meets all required setback distances without variance.

**8.8-10 Submittal Requirements.** *An application shall submit the following information as part of an application for a PWSF. Each node of a proposed DAS, whether on an existing pole or a proposed pole, shall have a separate-stand-alone and independent application. The ZBA may waive one or more of the application filing requirements of this section if it finds that such information is not needed for a thorough review of a proposed PWSF. (emphasis added)*

The Applicant respectfully requests waivers from certain requirements indicated below.

## **A. Application Information**

1. *Name, address and telephone number of applicant and all co-applicants as well as any agents for the applicant or co-applicants.*

See enclosed Application Form.

2. *A carrier must either be an applicant or a co-applicant and no more than one carrier is allowed in one application. If the proposed PWSF is for two or more carriers, each carrier must file its own application as either the applicant or co-applicant.*

The Applicant (Verizon Wireless) is an FCC Licensed carrier.

3. *A DAS pole or node shall have at least two PWSF carriers as co-applicants. Additional carriers on a DAS pole are not considered co-locatees unless new equipment will be added to the PWSF for the additional carrier.*

Not Applicable.

4. *A copy of the lease with the property owner and/or the structure owner of the proposed PWSF must be submitted, whichever or both that apply. If an existing utility pole is proposed, the pole attachment agreement must be submitted.*

A copy of Verizon Wireless' Notice of Lease as well as an express authorization from the property owner to file this Application is included in this Application Package.

5. *Original signatures for the applicant and all co-applicants applying for the PWSF must be submitted. If an agent will represent the applicant or co-applicant, original signature authorizing the agent to represent the applicant and/or co-applicant must be submitted.*

The Applicant is being represented by Carl Gehring of Gehring & Associates, LLC pursuant to the enclosed authorization.

6. *Copies of all submittals pertaining to FCC licensing; environmental impact statement; draft environmental assessments for Tier Three applications (described in Section 8.8-13A); FAA notice; aeronautical studies; letter of approval from the Massachusetts Department of Public Health; and all data, assumptions and calculations relating to RFR.*

The above, where applicable, are enclosed in the Application Package, unless requested to be waived.

7. *On a zoning or assessor's map, the locations of all existing and proposed PWSFs for that carrier in the Town and outside the Town within one mile of its corporate limits.*

See enclosed site map in the RF Plot section of the Application binder.

8. *Details of proposed method of finance surety as required in Section 8.8-22J.*

The Applicant proposes a surety bond, if required.

9. *Required plans and engineering plans, prepared, stamped and signed by a professional engineer licensed to practice in Massachusetts.*

See enclosed.

**B. Location Information**

1. *Identify the subject property by including the name of the nearest street or streets, and street address, if any. A right-of-way location must indicate the three closest street addresses.*

See enclosed Plans.

2. *Assessor's lot number of subject property or, in the case of a new utility pole in the public right-of-way, the nearest property. A utility pole in a private right-of-way shall show precise placement relative to the paved travel way or track.*

See enclosed Plans.

3. *Zoning district designation for the subject lot and for all lots within 300 feet of the property lines of the subject lot.*

See enclosed Plans.

4. *A line map or aerial photograph to scale showing the subject property and all properties within 300 feet and the location of all buildings, including accessory structures, on all properties shown.*

See enclosed Plans.

**C. Siting Information**

1. *A one inch-equals-forty feet vicinity plan showing the following (not required for a new utility pole in the right-of-way):*

Waiver Requested. As discussed with the ZBA at our pre-application meeting, due to the large size of the Subject Property, the exact scale of the plans are asked be waived so as to provide the most legible overall plan which minimizes the use of multiple sheets and cumbersome match lines

- a. *Property lines for the subject property and for all properties abutting to the subject property, including those lines furthest from the subject property.*

See enclosed Plans.

- b. *Distances, at grade, from the proposed PWSF to each building on the vicinity plan.*

Waiver Requested. See enclosed Plans. As discussed at the pre-application meeting, due to the large size of the Subject Property, for clarity, distances to the nearest houses, not *all* buildings, are shown.

- c. *Contours at each foot AMSL (above mean sea level).*

Waiver Requested. See enclosed Plans. Contours are provided in the vicinity of the proposed site(s) and access path(s) only. The Applicant requests a waiver from providing contours in areas beyond those proposed to be developed or altered by the Applicant.

- d. *Lines representing the sight line showing viewpoint (point from which view is taken) and visible point (point being viewed) from "Sight Lines" in Section 8.8-9.C2 below.*

See enclosed map of Photo-Simulations and balloon float photos for locations of each site view provided.

- 2. *Sight lines and photographs as described below:*
  - a. *Sight line representation. A sight line representation shall be drawn from the closest façade of each residential building (viewpoint) included on the vicinity plan to the highest point (visible point) of the PWSF.*
  - b. *Existing (after condition) photographs. Each sight line shall be illustrated by one four inch-by-six inch, or larger, color photographs of what can currently be seen from the residential building.*
  - c. *Proposed (after condition) photosimulation. Each of the existing condition photographs shall have the proposed PWSF superimposed on it to show what will be seen from residential buildings if the proposed PWSF is built. All photosimulations shall be positioned to show maximum exposure of any proposed service drive, such drive to be represented in its proposed, finished appearance.*

Waiver Requested. As discussed at the pre-application meeting, the above perspectives cannot be accurately obtained without trespassing on private property which the Applicant is unwilling to do. Instead, photosimulations are provided (enclosed) showing perspectives from public ways only.

3. *A Site Plan meeting the requirements of Section 9.2 (sic) of the existing Town Zoning Bylaw and, in addition showing the following:*
  - a. *The entire subject property, or 300 feet of right-of-way (150 feet to each side of the proposed facility, including property lines and streets (public and private) adjacent to the subject property.*
  - b. *All existing buildings, including accessory structures, either on the lot or for right-of-way, on lots adjacent to the right-of-way.*
  - c. *All existing vegetation, by mass or individually by diameter (four feet from the ground) of each stand-alone tree or shrub. Tree masses or individual stand-alone trees shall be identified by specie(s).*
  - d. *Proposed security barrier for a ground mount, indicating type and extent as well as point of controlled entry (not required for Tier One utility pole).*
  - e. *All proposed changes to the existing property or right-of-way, including grading, vegetation removal and temporary or permanent streets and driveways.*
  - f. *Representations, dimensioned and to scale, of the proposed mount, antennas, equipment shelters, cable runs, parking areas and any other construction or development attendant to the PWSF, including those portions on abutting properties.*

Waivers Requested. See enclosed Plans. Any information not specifically provided on the enclosed plans, which is not needed for the Board to properly analyze the Applicant's petition, is respectfully requested to be waived.

4. *Siting elevations, or views at-grade from the north, south, east and west for a 50 foot radius around the proposed PWSF. When a proposed PWSF is set back more than 50 feet from a public or private right-of-way, an elevation shall include any existing public and private streets that serve the subject property. Elevations shall be at either one-quarter inch-equals-one foot or one-eighth inch-equals-one foot scale and show the following:*
  - a. *Antennas, mounts and equipment shelter(s), with total elevation dimensions and AGL of the highest point.*
  - b. *Security barrier. If the security barrier will block views of the PWSF, the barrier drawing shall be cut away to show the view behind the barrier.*
  - c. *Any and all structures on the subject property.*
  - d. *Existing trees and shrubs at current height and proposed trees and shrubs at proposed height at time of installation, with approximate elevations dimensioned.*
  - e. *Grade changes, or cuts and fills, to be shown as original grade and new grade lines, with two foot contours AMSL.*

Waivers Requested. See enclosed Plans. Any information not specifically provided on the enclosed plans, which is not needed for the Board to properly analyze the Applicant's petition, is respectfully requested to be waived.

**D. Design Information**

1. *Equipment brochures or cut sheets for the proposed PWSF such as manufacturer's specifications or trade journal reprints. These shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.*

See enclosed. Some specification sheets are provided, but others are not applicable or not available. The Applicant's equipment shelter will be custom built and has not been ordered yet. Coax cables will be run inside the monopole and thus not be visible. The exact antennas to be utilized have not been chosen yet, but in any case they will be hidden inside the stealthing of the proposed tower and thus also not visible. Of course after the hearing process has begun the Applicant is willing to provide any additional information or clarification regarding equipment the Board reasonably feels is necessary to assist in its analysis of this Petition.

2. *Materials of the proposed PWSF specified by generic type and specific treatment (e.g., anodized aluminum, stained wood, painted fiberglass, etc.). These shall be provided for the antennas, mounts, equipment shelters, cables, as well as cable runs, and security barrier, if any.*

See enclosed Plans and Brochures.

3. *Dimensions of the PWSF specified for all three directions: height, width and breadth. These shall be provided for the antennas, mounts, equipment shelters and security barrier, if any.*

See enclosed Plans.

4. *Appearance shown by at least two photographic photosimulations of the PWSF within the subject property. The photosimulations shall show the antennas, mounts, equipment shelters, cables, as well as cable runs, and security barrier, if any, for the total height, width and breadth.*

See enclosed Photo-simulations.



5. *Landscape plan including existing trees and shrubs and those proposed to be added, identified by size of specimen at installation and species (not required for a new utility pole in the right-of-way).*

Waiver Requested. As discussed at the pre-application meeting, the proposed site is located deep within a wooded area on the Subject Property and as such it is already “landscaped” and hidden from off-site perspectives.

6. *All Tier Three applications shall submit a foundation plan for any structural mount, including width, depth and materials of the caisson or footing. Notations such as “foundation by others” shall not be acceptable.*

Waiver Requested. As discussed at the pre-application meeting, foundation designs are not typically drawn until after zoning approval is obtained and a geotechnical analysis is performed. In any case, the proposed foundation will be subsurface and hidden from view and certainly not visible from off site. A proper foundation drawing will be provided to the Building Inspector upon making application for a Building Permit. Foundation plans are typically not reviewed as part of the zoning process.

#### ***E. Narrative Information***

1. *Applicant shall submit a notarized statement signed by the applicant(s) stating that all information included in the submittal is materially accurate, true, complete and verifiable. Inaccurate, untrue, misleading or false information submitted in pursuit of a special permit by the applicant, the provider company or their agents may be grounds for denial of a special permit.*

See enclosed.

2. *Carrier shall identify:*
  - a. *Site latitude*
  - b. *Site longitude*
  - c. *AGL to the radiation center and the top of highest projection (e.g., lightning rod).*

See enclosed Plans.

3. *Tier Two and Tier Three applicants should provide:*
  - a. *Two alternatives to proposed PWSF.*

- b. Alternatives should comply with criteria in Section 8.8-11.E of this Bylaw for differences between the proposed PWSF and the alternatives.*

See enclosed Plans where alternatives complying with 8.8-11.E are indeed provided.

- c. Failure of the applicant to provide two alternatives does not constitute an incomplete application, however.*
  - i. The Town reserves the right to select its own alternatives.*
  - ii. Each alternative selected by the Town will be analyzed in terms of Section 8.811.E factors only.*

Not Applicable. Applicant has provided the requisite alternatives thus a Town-chosen alternative is not necessary.

- 4. The Town reserves the right to select alternative sites for new utility poles in the right-of-way.*

Not Applicable.

- 5. Applicant to identify construction sequence and route(s) to be used to transport materials and equipment to the site.*

The construction of a single tower such as what is being proposed is not a very complicated process and does not require any special or unusual construction sequence per se. An access drive will be created to the site location which will be cleared and grubbed of obstructing vegetation. A hole will be dug, a foundation will be formed up and poured, a ground ring and ground rods will be buried around the foundation, underground utility conduits will be laid, the surrounding soil will then be backfilled and compacted, the tower will be stacked, antennas will be hung off the tower and ground equipment shelter will be constructed at the base of the tower inside a fenced compound area that will be fitted with geotechnical weed control fabric covered with crushed stone to allow for unobstructed drainage.

The construction of the type of tower proposed does not require any unusual or extraordinary equipment except perhaps for a crane to erect the tower itself. Access will be along normal roadways, down New Lane and in off the landowner's existing driveway. The tower will be delivered to the site in pieces and assembled on site. The entire process is less disruptive and less noticeable than the construction of a single family home.

## ***F. Geographic Information***

1. *Area to be served by the proposed PWSF.*
  - a. *Within the Town (not a radio frequency propagation plot).*
  - b. *Adjacent to the Town (not a radio frequency propagation plot).*

As discussed at our pre-application meeting, RF Plots are the only way to accurately demonstrate an “area to be served” by a particular site. However, for clarity in identifying areas “within the town” and “adjacent to the town” the Plots are overlaid on top of road maps with town boundaries.

2. *Tax map showing adjacent properties and existing land use on these properties.*

See enclosed Plans.

***8.8-11 Alternative Analysis and Comparison.*** *Each application for a PWSF should also contain at least two alternatives that differ from the PWSF proposed in the application. These requirements do not apply to proposals for new utility poles in the right-of-way.*

***A. Alternative Sites.*** *A description of alternative sites for the proposed PWSF with the following information:*

1. *The U.S.G.S. topographic map which identifies the location of alternative sites.*
2. *An assessor’s map of the lots or tracts of the alternative sites showing the acreage and dimensions of each site, the name and location of adjoining or nearest public roads and names of abutting property owners.*
3. *Any additional information necessary to provide a comparison of the costs and environmental impacts of the alternative sites with that of the proposed site.*

See enclosed Plans. All locations are on the same tax parcel. The cost differences between the alternate locations are negligible and only related to length of access and utility runs. A monopine style would require a larger foundation and be more expensive than a stealth pole. A lower tower would be less expensive than a taller tower. None of the alternatives vary at all in environmental impact, which in all cases is insignificant.

***B. Differences.*** *The alternatives need not be totally different from the proposed PWSF; however, the alternatives should contain measurable differences, such as:*

1. *Height. An alternative can be identical to the proposed PWSFs except to be for a shorter height.*
2. *Number. An alternative could be for two or more PWSFs that are shorter than the proposed PWSF.*

3. *Location. An alternative could be located on a different property than the proposed PWSF.*
4. *Siting. An alternative could be in a different place on the same property as the proposed PWSF.*
5. *Design. An alternative could be of the same height, location and siting as the proposed PWSF, but be designed to appear differently, such as a farm silo.*
6. *Technology. An alternative could be the use of a Distributed Antenna System instead of the proposed PWSF.*

In keeping with the above criteria, the Applicant, in addition to its first choice (Location A), is offering alternatives that differ in Location and Design. See enclosed Plans.

**C. Submittal Requirements for Alternatives.** *The materials submitted for each alternative should show only the differences between each of the alternatives and the proposed PWSF.*

See enclosed Plans.

**D. Town of West Tisbury Provision of Alternatives.**

1. *If the applicant has not submitted two alternatives, the ZBA Administrator or his/her designee shall prepare at least two alternatives.*

Not Applicable. The Applicant has indeed submitted two alternatives.

2. *If the applicant has submitted two or more alternatives, the ZBA Administrator or his/her designee shall prepare at least one alternative.*

The Applicant respectfully reminds the Board that, although it has already offered suitable alternatives, any additional alternatives suggested by the Board must be acceptable to both the RF Engineers as well as our host landowner. In other words, any alternative has to function properly from an RF perspective and it must be approved by our landlord. As a tenant on land owned by others, we have no authority to agree to designs and locations not already offered without the landowner's express consent.

**E. Comparison of Proposed PWSF and Alternatives.** *The ZBA shall compare the proposed PWSF to the alternatives on the basis of the following:*

1. *Change in community scale, as exhibited in relative height, mass or proportion of the PWSF within its proposed surroundings.*
2. *New visible elements proposed on a contrasting background.*
3. *Different colors and textures proposed against a contrasting background.*

4. *Use of materials that are foreign to the existing built environment.*
5. *Conservation of opportunities to maintain community scale, not compromising buffering areas and low-lying buildings so as to start a trend away from the existing community scale.*
6. *Amount and diversity of landscaping and/or natural vegetation.*
7. *Preservation of view corridors, vistas, and viewsheds.*
8. *Continuation of existing colors, textures and materials.*

As can be seen on the enclosed Plans, the Applicant is suggesting its first choice (Location A) along with two other locations. At each site location multiple designs are being offered. These choices can be recapped as follows:

Three (3) locations:

- A. Behind landowner's barn (farthest west location).
- B. To the east of A, mid-way across property (middle location).
- C. So called "original location" (farthest east).

At each location, three (3) different styles:

- 1.) An 80' Monopine capable of hosting Verizon Wireless plus 2 co-locators.
- 2.) An 80' Stealth Pole capable of hosting Verizon Wireless plus 1 co-locator.
- 3.) A 70' Monopine capable of hosting Verizon Wireless plus 1 co-locator.

Therefore Nine (9) different alternatives are being proposed (3 locations) x (3 designs) = 9.

**F. *Ranking of Proposed PWSF and Alternatives.*** *The ZBA Administrator or his/her designee shall rank the proposed PWSF and each alternative based on the criteria listed in Section 8.8-13.E above. The ranking of the proposed PWSF and each alternative shall be submitted to the ZBA along with each application for review by the ZBA. The ZBA shall consider the alternatives along with the proposed PWSF.*

The Applicant's preference and first choice is an 80 foot tall Monopine at location A.

## **8.8-12 Hazardous Materials Filing Requirements**

**A. *Written Description.*** *The applicant should provide a written description of the type(s) and quantities of any hazardous waste and/or hazardous materials to be used, stored or generated for each wireless carrier proposed to be located on the project site, as well as provide a written description and plans for containment of any hazardous materials/waste.*

There will be no hazardous waste stored on the project site at any time. The only materials that could remotely be deemed hazardous will be self-contained inside the Applicant's proposed equipment shelter. Those materials include batteries for the radio equipment and diesel fuel, motor oil and antifreeze for the emergency stand-by generator.

## 8.8-13 Environmental Compliance

### A. Federal Environmental Assessment Requirements for Tier Three Applications.

1. *The National Environmental Policy Act (NEPA) applies to all applications for PWSFs. NEPA is administrated by the FCC via procedures adopted as Subpart 1, Section 1.1301 et seq. (47 CRF Ch. 1). The FCC requires that an environmental assessment (EA) be filed with the FCC prior to beginning operation of any PWSF proposed in certain type of areas or which certain characteristics.*
2. *At the time of application filing, a draft EA that meets FCC requirements shall be submitted to the Town for each Tier Three PWSF site that requires such an EA to be submitted to the FCC.*

The Applicant is still in the process of working on its NEPA evaluation; it is not available for submittal at this time. In any case, notwithstanding the above provision of the West Tisbury Zoning Bylaws, the NEPA report must be, and will be, completed prior to the Applicant proceeding with any development on site. NEPA is a federal review process and federal requirement beyond the jurisdiction and purview of the Town.

### B. Radio Frequency Radiation Emissions Requirements

1. *Each application for a PWSF shall be accompanied by a statement by a professional engineer certifying that, as proposed, the PWSF complies with the FCC Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation (FCC Guidelines) concerning radio frequency radiation and emissions.*

See enclosed RF emissions compliance report.

2. *The ZBA **may** require applicants for Tier One, Two or Three PWSF to submit a report containing the following information on the existing and maximum future projected measurements of RFR from the proposed PWSF, for the following situations: (**emphasis added**)*
  - a. *Existing or ambient: the measurement of existing RFR.*
  - b. *Existing plus proposed wireless facility: maximum estimate of RFR from the proposed personal wireless facility plus the existing RFR environment.*
  - c. *Existing plus proposed wireless facilities plus cumulative: maximum estimate of RFR from the proposed wireless facility plus the maximum estimate of RFR from the total addition of co-located wireless facilities plus the existing RFR environment.*

- d. *Certification, signed by a professional engineer, stating that the RFR measurements are accurate and meet the requirements for radio frequency radiation reports in this Bylaw.*

Waiver Requested. As discussed at our pre-application meeting, Congress has vested exclusive jurisdiction over RFR in the federal government, specifically the FCC. It is unnecessary for the Town to require any independent testing therefore the Applicant respectfully requests a waiver from the foregoing because this is a discretionary, not mandatory, provision of the Bylaw.

### **C. Monitoring and Evaluation of RF Radiation for Tier One, Tier Two and Tier Three PWSF's**

#### *1. Pre-testing*

*After the granting of a Special Permit and before the applicant's PWSF begins commercial transmission, the applicant shall pay for an independent consultant, hired by the Town, to monitor the background levels of EMF radiation, around the proposed facility site and/or any repeater locations to be utilized. Testing results shall meet FCC and state standards. A report of monitoring results shall be prepared by the independent consultant and submitted to the Board of Health.*

#### *2. Post-testing*

*After transmission begins, the owner(s) of any PWSF located on any facility site shall pay for an independent consultant, hired by the Town, to conduct testing and monitoring of EMF radiation emitted from said site, and to report results as follows:*

*a. Every two years there shall be routine monitoring of emissions by the independent consultant using actual field measurement of radiation, utilizing FCC and State monitoring protocol. This monitoring shall measure levels of EMF radiation from the facility site's primary antennas as well as from repeaters (if any). Testing will be conducted during the peak use time in August, to give the most accurate indication of impacts on abutters and others. A report of monitoring results shall be prepared by the independent consultant and submitted to the Zoning Board within 30 days of completion of the testing.*

*b. Any modification of an existing PWSF or the activation of any additional permitted channels or co-location shall require new monitoring. and every time a modification or a collocation is proposed for the PWSF.*

#### *3. Excessive Emissions*

*a. Should the monitoring of a facility site reveal that the site exceeds the Federal Communications Commission (FCC) 96-326 standard, then the owner(s) of all facilities using the site shall be so notified. The owner(s) shall submit to the Board of Health a plan for reduction of emissions to a level that complies with the FCC*

*96-326 standard within 10 business days of notification of noncompliance. That plan shall reduce emissions to the standard within 15 days of initial notification of non-compliance. Failure to accomplish this reduction of emission within 15 business days of initial notification of non-compliance shall be a violation of the Special Permit and subject to a fine of \$300 per day for each offense and/or revocation of the Special Permit and removal of the facility at the owner(s) expense. Such fines shall be payable by the owner(s) of the facilities with antennas on the facility site, until compliance is achieved.*

*b. If such standards and regulations are changed, then the owners of the towers and antennas shall bring them into compliance with the revised standards within six months of the effective date. Failure to bring towers and antennas into compliance with revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.*

Waiver Requested. For the reasons mentioned above, the Applicant again respectfully requests a waiver from this unnecessary provision.

### **C. (sic) [D] Noise Requirements**

- 1. In all instances except emergency situations, no equipment shall be operated at a PWSF in excess of 50 dBA at the nearest property line.*
- 2. Noise filing requirements. The ZBA shall require applicants for a Tier Two or Three PWSF to submit a report containing the following information on the existing and maximum future projected measurements of noise from the proposed PWSFs, measured in decibels Ldn (logarithmic scale, accounting for greater sensitivity at night), for the following situations.*
  - a. Existing or ambient: the measurement of existing noise.*
  - b. Existing plus proposed PWSF: maximum estimate of noise from the proposed PWSF plus the existing noise environment.*
  - c. Existing plus proposed wireless facilities plus cumulative maximum estimate of noise from the proposed wireless facility plus the maximum estimate of noise from the total addition of co-located wireless facilities plus the existing noise environment.*
  - d. Certification, signed by an acoustical engineer, stating that noise measurements are accurate and meet the requirements of Section 838-18.C of this Bylaw.*

See enclosed Environmental Noise Impact Report which demonstrates Applicant's compliance with the foregoing requirements.



3. *The ZBA may require as part of conditions of approval for Tier Two or Three applications that a noise report as described in this Section be submitted every two years as well as every time a modification or a co-location is proposed for the PWSF.*

Waiver Requested. The Applicant respectfully requests a waiver from additional testing other than to respond to, and remedy, any specific community complaint(s).

**8.8-14 Signs/Identification Plaques.** *No signage shall be permitted on any PWSF other than that required for public safety purposes or by the FCC or FAA, except that each PWSF shall have a weather-proof plaque mounted at eye level by the entry gate of the fence identifying the carrier, frequency and date of approval of zoning permit and direct contact 24 hour emergency phone number. In addition, No Trespassing or other warning signs may be posted on the fence. No sign may exceed 2 square feet.*

Understood and agreed.

**8.8-15 Screen and Landscaping for Tier Two and Tier Three.**

- A. Natural Vegetation.** *Existing natural vegetation shall be undisturbed to the greatest extent practicable.*

Understood and agreed.

- B. Landscaping:** *Landscaping of disturbed areas on the ground of the Tier Three PWSF site and security barriers shall be required.*

The subject site is already located deep within a wooded area so that additional landscaping is not required to further shield this location from off-site view.

**8.8-16 Access and Parking for Tier Two and Tier Three**

- A. Parking.** *Areas sufficient for the temporary off-street parking of at least two vehicles shall be provided for Tier Two and Tier Three PWSFs. The type and configuration of parking may be approved by the ZBA.*

See enclosed Plans.

**B. Private Access.** *A copy shall be provided to the Town ZBA of any street maintenance agreement for any site accessed by private easement.*

Not Applicable.

**C. Tier One PWSFs.** *No parking areas are required.*

Not Applicable.

**8.8-17 Insurance.** *PWSFs shall be insured by the owner(s) against damage to person or property with coverage limits not less than five million dollars. The owner(s) shall provide a certificate of insurance to the Selectmen's office on an annual basis in which the Town shall be an additional named insured. The ZBA may from time to time require the applicant to increase the limits of such coverage.*

The Applicant is not proposing a site in the public right of way. The proposed site sits entirely on private land. An agreement exists between the Applicant and the underlying landowner relative to insurance, which the Applicant fully intends to honor. Because no portion of the site or access are on Town property, the Applicant respectfully points out that the Town has no insurable interest or contractual reason to be named on the Applicant's insurance policy.

**8.8-18 Fees**

*A Special Permit and/or new operating license shall not be issued until all fees due and owing have been paid.*

Fee Checks have been submitted as required.

**8.8-19 Provision of Independent Consultants.**

**A. Types of Independent Consultants.** *These consultants shall each be qualified professionals with a record of service to municipalities in one of the following fields: telecommunications engineering; structural engineering; monitoring of electromagnetic fields; and, if determined necessary by the ZBA, other consultants.*

**B. Copy of Application to Independent Consultants.** *Upon submission of a complete application for a Special Permit under this Article, the ZBA shall provide its independent consultants with the full application for their analysis and review.*

**C. Site Visits.** *Applicants for any Special Permit under this Article shall grant permission for the Town's independent consultant(s) to conduct any necessary site visits.*

The Applicant agrees to work with the Town's consultant(s) as required to facilitate the analysis of this Application.

#### **8.8-20 Additional Requirements After Approval or Construction**

**Easement.** *The landowner shall enter into a recordable easement, restriction or similar instrument enforceable by the Town, by which it is agreed that:*

- 1. No cutting of trees or other vegetation shall occur within 200 feet of the facility without prior written approval of the ZBA, and*

Waiver Requested. As discussed at our pre-application meeting, the Applicant respectfully requests a waiver from this provision as the landowner wants to retain the ability to cut firewood and prune trees as it sees fit on its own land, which has been in the same family now for almost 300 years.

- 2. All supplemental landscaping required by the ZBA shall be fully maintained.*

Because the site is located several hundred feet in the interior of the Subject Property, no additional landscaping is proposed.

- A. **Maintenance:** The applicant shall maintain the PWSF. Such maintenance shall include, but shall not be limited to, structural integrity; painting; and landscaping.*

Agreed.

- B. **Inspection:** The owner or operator of PWSFs shall provide for and conduct an inspection of mounts at least once every five years in conjunction with the review of the zoning permit required in Section 8.8-22K. A report by a structural engineer on this inspection shall be provided to the Town Building Inspector verifying that the structural integrity of the mount meets EIA/TIA 222 (Version G) standards.*

Agreed.

- C. **Unsafe Structure.** In the event the structure is not maintained or found to be unsafe, the owner(s) of the PWSF shall submit a plan within 10 business days of notification to remediate the defect(s). Failure to accomplish this remediation within 20 days of the initial notification shall be a violation of the Special Permit and subject to a fine of \$300 per day for each offense. Such fines shall be payable by the owner(s) of the facilities.*

Understood.

**D. Operation.** *All active PWSFs shall be operated continuously except for maintenance. Seasonal operation is not permitted and may result in revocation of permits and removal of facility. Any cessation of operation for more than five contiguous days shall be reported to the Zoning Inspector within five working days.*

Agreed.

**E. Abandonment.** *If a licensed carrier plans to abandon or discontinue operation of a PWSF, that carrier shall notify the Zoning Inspector by certified U.S. mail of the proposed date. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations.*

Agreed.

**F. Failure to Operate.** *In the event that a carrier fails to give such notice, or if the facility ceases to operate, the PWSF shall be considered abandoned. Ceases to operate is defined as not performing the normal function associated with the PWSF and its equipment on a continuous and ongoing basis for a period of 90 days.*

The act of one tenant failing to give notice should not render the facility “abandoned” for the other tenants who continue to operate on site. The Applicant suggests this provision, as written, is misleading and should only apply if all tenants and users of the facility have indeed vacated.

**G. Removal Upon Abandonment.** *Upon abandonment or discontinuation of use, the carrier shall physically remove all structures associated with the PWSF and the site shall be fully restored to its former condition, or to such condition as the Zoning Inspector may require, within 90 days from the date of abandonment or discontinuation of use.*

The Applicant agrees to remove all improvements above grade and restore the site pursuant to the direction of its landlord, the landowner.

**H. Town Removal.** *If a carrier fails to remove a PWSF in accordance with this article, the Town shall have the authority to enter the subject property and physically remove the facility.*

Understood.

- I. Surety.*** *The applicant(s) shall, as a condition of the Special Permit, provide a financial surety payable to the Town, to cover the cost of removal of the PWSF, the remediation of the landscape, and the abatement of any pollution when the facility ceases to operate. Every owner/operator of a PWSF shall be required to post and maintain a bond with the Town in the amount of \$10,000.00 to cover such costs.*

Applicant agrees to post said surety prior to making application for a Building Permit.

- J. Review of Permit.*** *Special Permits issued under the terms of this Bylaw shall be reviewed by the Town ZBA every five years from the date of issuance for compliance with this Bylaw and any special terms or conditions of approval. Such permits are subject to suspension or revocation at any time if it is determined that the terms of the permit and any conditions contained therein, or any rules or regulations adopted by the state or federal government concerning the use of such facilities, are being violated.*

Agreed. However, the Applicant understands that, absent violations egregious enough to warrant revocation, the Special Permit, once issued, shall run for a term concurrent with the use and occupancy of the facility by the Applicant, its assignees, and any subsequent co-locator(s).

### **III. WAIVERS REQUESTED**

Section 8.8-10 of the Bylaw allows the Board to grant waivers from the various submittal requirements if they are deemed unnecessary for a proper analysis of the petition at hand. At our Pre-Application Meeting the Board concurred that certain materials, requested in the Bylaw, may not be relevant or required for a thorough review of the proposed installation. Accordingly, the materials enclosed in this Application binder are those deemed necessary for the Board's analysis. All other materials enumerated in Section 8.8 but not provided herein are respectfully asked to be waived and are noted as such on the preceding portions of this Statement with the underlined words "Waiver Requested." If upon further review, after the hearing process has begun, the Board feels certain additional material might be necessary to assist in its analysis, the Applicant will cooperate and comply with any reasonable requests of the Board to provide such additional information.

### **IV. DIMENSIONAL ANALYSIS**

Section 4.2 of the Bylaw provides a Dimensional Table wherein 50 foot Front, Side, and Rear Yard Setbacks are required in the subject RU zoning district. The Applicant is able to provide all of the foregoing without variance from its first choice, as well as alternate, location(s).

In addition, the Personal Wireless Service Facilities portion of the Bylaw (Section 8.8) requires tower setbacks of Height x 1 + 30 feet to property lines and 2 x Height to “habitable areas” which are also provided from the primary as well as secondary location (Locations A and B) without variance. The only area of ambiguity applies to distance to “outdoor area where people congregate” relative to Location C. This location is not the Applicant’s first choice.

## **V. SPECIAL OVERLAY DISTRICTS**

There are three Special Overlay Districts that touch the Subject Property, but only a subset of one is applicable to this Petition. The Roads District applies to those portions of the Subject Property “*lying within two hundred feet of the right of way*” of New Lane. In the present instance, the primary and alternate tower sites offered all sit outside of that zone, within the interior of the Doane’s land, thus this Overlay is not applicable. The Flood Plain Zone applies to all areas within Flood Zones designated AE, AO or VE. None of the offered tower locations are located in any of those flood zones thus this Overlay is also not applicable. The only Overlay District that affects any of the proposed locations is the Inland subset of the Coastal District which is applicable to proposed tower Locations A and B, but not Location C.

The Subject Property enjoys a riparian boundary along Town Cove where the Coastal District encroaches 500 feet upland thereby capturing proposed tower Location A and Location B, but not Location C. However, all locations are located outside the more limited Shore Zone which extends inland for the first 100 feet. When deciding whether or not to site the proposed facility within this Overlay the Applicant felt it was more important to locate the facility so it would have the least impact on the residents along New Lane as the facility’s impact on the Coastal District itself would be negligible.

The purpose of the Coastal District is enumerated in Section 6-1-1 as follows:

*To prevent flood damage, maintain water quality, assure adequate water supply, prevent pollution, promote wildlife habitats, assure the maintenance of cultural and historic sites and values, prevent damage to structures, land and water as a result of erosion, promote economic development of fisheries and related industries and maintain and enhance the overall economy of the Island.*

It is evident from reading the stated Purpose that the Applicant’s proposed facility, that of an unmanned, unoccupied, remotely monitored wireless telephone utility pole that uses no water or sewer services, will have absolutely no impact whatsoever on the expressed concerns of the stated Purpose. If anything, the proposed use, which will enhance wireless communications in the area, could be seen to support the final purpose to “*maintain and enhance the overall economy of the Island.*” As previously stated, wireless communications are good for businesses, home-based, self employed, or otherwise. The proposed use then will provide either a neutral or non-existent, but quite possibly positive, impact on those elements stated in the Purpose.

Section 6.1-5(B) allows the proposed use (wireless) by Special Permit since it is also allowed in the underlying zoning district by Special Permit as well. The requested height of the proposed tower is allowed by Special Permit because Section 8.8 of the Bylaw controls tower heights in all zoning districts. The proposed tower designs, that of either a monopine or simple stealth pole are offered to be “*consistent with the landscape and the character of the area*” as required under Section 6.1-6(A)(3).

No development is proposed within 100 feet of any stream or wetland (Section 6.1-6(B)). No hard road surfaces or parking lot for six or more vehicles is proposed (Section 6.1-6(C)). All utilities (power and telephone) within the Coastal District will be installed underground (Section 6.1-6(D)). The new portion of the Applicant’s site access is proposed to be 12 feet wide instead of 10 feet wide, but this too is allowed by Special Permit (Section 6.1-6(E)). It must be noted in this regard that the extent of cleared width (tree clearing) along the existing portions of the access drive(s) on the Subject Property already sits at approximately 12 feet (or more in some instances) so nothing inconsistent or incompatible with the existing conditions on site is proposed with regard to access. And finally, no development is proposed either within 500 feet of any *area of major public investment* or within 40 feet of any *special place of historic value* (Sections 6.1-6(F) and (G)). So as is evident from the above, the proposed use will have little or no impact on the Coastal District and it is otherwise allowed by Special Permit, which is why Section 6.1 is made part of this Application.

Section 6.1-7 calls for Administration within this Overlay as requiring a Special Permit by the Zoning Board and Site Plan Review by the Planning Board. However, the Applicant points out that while Article VI calls for the “*regulations and restrictions*” of Overlays (i.e. Section 6.1-6 as previously discussed) to supersede those of the underlying zoning districts it does not expressly mandate superimposing the Administration of the Overlay (Section 6.1-7) in conflict with other provisions of the Bylaw. While it is true “the more limiting requirements shall prevail” that statement again refers to the *regulations and restrictions*, not administration of Overlays. This is an important distinction because the Applicant has applied for a Special permit under Section 8.8 which requires filing with the Zoning Board where site plan review is administered as part of that process.

To require an additional, separate site plan review by the Planning Board when the Zoning Board is charged with the site plan review of wireless installations would be redundant and unnecessary especially in light of the fact the Planning Board is provided a copy of this Application pursuant to Section 8.8-5(B) and is invited to submit comments to the Zoning Board prior to the Zoning Board’s deliberations. Because Article VI superimposes the District’s *regulations and restrictions* (Section 6.1-6) and not its Administration (Section 6.1-7) the Applicant respectfully requests it submit to only one Site Plan Review by the Zoning Board as part of the wireless Special Permit process. This discussion, of course, applies only to site Locations A or B, and not C. If Location C is chosen then the Coastal District is not applicable at all. However, as previously mentioned, the Applicant felt it was in the best interest of all to move the site where it will have the least impact on the

residents on New Lane notwithstanding its corresponding resultant placement within the Coastal District, thus Location A is the Applicant's first choice and preferred location.

## **VI. SECTION 9.2 SPECIAL PERMITS**

Section 9.2-2 of the Bylaw enumerates certain finding criteria, both general and specific, regarding Special Permit applications. In order to demonstrate the Applicant's compliance with these provisions of the Bylaw, the various review criteria are outlined *in italics* with the Applicant's responses thereto (in plain text) as follows:

### *Section 9.2-2(A) - General Findings*

#### *1. The proposed use is in harmony with the general purpose and intent of this bylaw.*

The Purpose and Intent of the Wireless portion of the Bylaw is to “*protect the attractiveness, health, safety, general welfare and property values of the community*” (Section 8.8-2(A)). The proposed use is in harmony with that because a stealth and camouflaged facility is being proposed which will result in a very unobtrusive installation. Once constructed, the facility will assist in providing uninterrupted wireless services to the area, which will benefit the safety and general welfare of the community. The facility will produce no nuisance or hazard of any kind, thus it will have no impact whatsoever on health. On the other hand, the installation could actually serve to save lives and protect health by allowing emergency service, E911 and police and fire calls to be made remotely where they might not otherwise have been able to go through.

In addition, one of the general goals of the entire Zoning Bylaw is to offer “*opportunities for small businesses in appropriate locations throughout the Town, without changing the attractive rural, agricultural, and residential character of the Town*” (Section 1.1). The proposed facility will serve that goal by providing enhanced wireless communications to the area which could help to support home-based businesses. And this will be accomplished without sacrificing or altering the Town's character because the facility being proposed is stealth and unobtrusive.

#### *2. The benefits of the proposed use to the Town outweigh its adverse effects.*

The benefits include the uninterrupted propagation of wireless service which is currently lacking or deficient in the area. Wireless communications are a benefit to the public safety, welfare and convenience. Wireless communications will benefit the self-employed and those working from home offices. Wireless communications are essential to public safety officials. All of these benefits can be provided with no adverse effects whatsoever because the facility is proposed to be located deep within a wooded area, several hundred feet removed from neighboring properties. The real estate reports submitted with this Application indicate the proposed facility will have no deleterious impact on surrounding property values. The acoustical report submitted indicated the facility will be compliant



with Town noise regulations. No nuisance or adverse effect will occur because of the proposed installation.

*3. The proposed use is consistent with the West Tisbury Master Plan.*

The use is consistent with the Master Plan because it supports uninterrupted wireless communications which benefit the public safety and convenience. Pages 60 and 61 of the Master Plan discuss Fire Protection and Emergency Services which stress the importance of a “*timely response to emergency calls*” as one of its objectives. Certainly allowing emergency calls to be made remotely, or during a power failure, when other forms of communications may be inoperable, benefits that objective.

The Master Plan also “*encourages economic activity that is in harmony with the rural character of the town.*” (See Goal, on page 32). Home Occupations are also encouraged as “*businesses [that] do not have to compete for expensive, commercially zoned land.*” (See Home Occupations on page 29). Wireless communications promote and assist the operation of Home Occupations by providing an efficient alternative to conventional land-line telecommunications. Should a business rely on wireless for its primary form of communications it is imperative that a reliable network exists. For the foregoing reasons the proposed installation will benefit economic activity and is indeed consistent with the goals and objectives of the Master Plan.

*Section 9.2-2(B) – Specific Findings*

- 1. Is consistent with the purposes and requirements of the applicable land use district, overlay districts, and other specific provisions of this bylaw (including Site Plan Review requirements) and of other applicable laws and regulations.*

The proposed use is allowed by Special Permit in the subject zoning district. The specific approval criteria required for such installations have been met without variance. A Site Plan meeting all pertinent criteria has been submitted. An unobtrusive installation is being proposed. For the foregoing reasons the use is consistent and harmonious with the Bylaw.

- 2. Is compatible with surrounding uses and protective of the natural, historic, and scenic resources of the Town.*

The surrounding uses consist of residences. The proposed installation will have no impact whatsoever because it will be stealth, unobtrusive and require minimal development to construct. Once built, no “activity” per se will occur on site as a result of this use. The use proposed is really more of a “non-use” in the conventional sense because, once constructed, nothing will occur on site.

3. *Is accessible to fire, police, and other emergency vehicles.*

An access driveway will be constructed that will be accessible to emergency vehicles. However, it is unlikely any emergency vehicle will ever have to visit the site because the proposed installation is that of an unmanned, unoccupied, remotely-monitored wireless telephone utility installation.

4. *Will not create excessive off-premises noise, dust, odor, or glare.*

Dust, odor and glare are non-applicable to the proposed installation. Noise will be mitigated to a level lower than Town guidelines so as to be a complete non-issue.

5. *Will not cause traffic congestion, impair pedestrian safety, or overload existing roads, considering their current width, surfacing, and condition.*

Not Applicable. The proposed unmanned, unoccupied, remotely monitored installation will have no impact whatsoever on traffic and pedestrian safety.

6. *Will not overload any municipal facility or any public or private water, sewage disposal, or drainage system.*

Not Applicable. The proposed unmanned, unoccupied installation uses no water or sewer services.

7. *Will not adversely affect the availability or cost of housing for year-round residents of West Tisbury.*

Not Applicable.

8. *Will not cause significant environmental damage due to flooding, wetland loss, habitat or ecosystem disturbance, or damage to valuable trees.*

Not Applicable. No wetlands, habitat or ecosystem will be altered in order to make room for this minor installation. The area where the installation is proposed is “high and dry” and will have no impact on flooding in the area. No valuable trees will be removed.

9. *Will not cause other adverse environmental effects. Such effects may include:*
  - a. *Pollution of surface water or groundwater;*

Not Applicable. No sewer service or storm water drainage are proposed or required.

*b. Salt-water intrusion in public or private domestic water supply wells;*

Not Applicable.

*c. Inadequate water supply to meet the anticipated demand of the proposed activity or use or reduction of water supply to other properties;*

Not Applicable.

*d. Noise and air pollution;*

The tower facility itself will produce no noise, but the Applicant's equipment shelter will host HVAC units as well as an emergency stand-by power generator. The HVAC units will produce sound similar to window air conditioner units typically found in residences. The proposed generator will be a modern and efficient unit that will not create what could be considered air pollution. Noise from the unit will be mitigated and muffled to result in readings lower than Town guidelines, and therefore will not be a pollutant.

*e. Destruction of wildlife habitats and damage to wetlands or littoral ecology;*

Not Applicable. The area where the minor expansion of the fenced compound is proposed does not contain any of the above.

*f. Damage to marine fisheries and shellfish;*

Not Applicable.

*g. Construction which unnecessarily damages the visual amenities of the site and which is not in harmony with the landscape type;*

Construction of the proposed facility will require some minor tree clearing, but certainly less than what would be required for a modest single-family home. Once built, the facility will remain deep within a wooded area in the interior of the Subject Property where it will not be visible from off-site. Only a small portion of the top of the tower facility itself may be visible from certain perspectives, but such a de minimis view cannot be thought to unnecessarily damage any visual amenity.

- h. *Unnecessary decreases in agricultural use or potential productivity of land;*

Not Applicable.

- i. *Erosion resulting from or caused by development.*

Not Applicable.

## **VII. CONCLUSION**

Verizon Wireless' proposal to construct a new stealth Personal Wireless Service Facility is consistent and in harmony with the approval criteria enumerated in the Zoning Bylaw and therefore should be allowed. A stealth facility is being proposed that will be unobtrusive and have no impact on surrounding properties except for the benefit it will offer through the provision of enhanced wireless services and improved communications.

The real estate reports submitted with this Application indicate the proposed use will have no deleterious impact on surrounding property values. The acoustical report submitted with this Application indicates the facility will be compliant with all applicable Town noise ordinances. The RF Emissions report submitted herein indicates the facility will operate in compliance with, and in fact well below, all applicable FCC guidelines for such facilities. The facility will propose no hazard to air navigation and it will create no environmental hazard or nuisance of any kind whatsoever. A simple pole in the woods is all that is proposed.

In addition to state and local law, certain provisions of federal law are also applicable to Verizon's proposal in that Verizon Wireless is a federally licensed wireless communications provider. Pursuant to the Telecommunications Act of 1996 ("TCA"), Verizon Wireless is afforded certain protections in the analysis of local land use issues which, in effect, act as a federal overlay on a local board or municipal authority's review process. Among other provisions, the TCA provides specifically in 47 U.S.C. Section 332(c)(7)(B)(i) that local governments, through their review and decisions on permits must not "*have the effect of prohibiting*" an FCC Licensee's service in the area. This provision is relevant here because a denial of the proposed installation would result in substantial gaps in coverage and dropped calls thereby prohibiting Verizon Wireless from properly propagating its service in the area. Such gaps in coverage could be alleviated by allowing the installation as proposed.

The Telecommunications Act also requires that permitting authorities "*shall not unreasonably discriminate among providers of functionally equivalent services.*" (47 U.S.C. 322(c)(7)(B)(i)). This provision is relevant here because Verizon Wireless is a functionally equivalent service provider and competitor of others that received similar approval from this Board to effectuate a stealth installation in a similar residential

neighborhood in Town. Denying Verizon Wireless' petition for such a functionally similar installation could be deemed to violate certain protective provisions of applicable federal law.

In the months prior to the filing of this application we have, from time to time, heard certain suggestions from folks, made in good faith, that clearly indicate a fundamental misunderstanding of how the wireless business operates and how new sites are chosen. It has been suggested we consider the Fire Tower instead of this site. We already have an installation on the Fire Tower. We have been asked to consider siting on one of the towers at the Airport. We are already on one of those towers. It has been suggested one of the airport towers could be extended in height. We have no knowledge of whether that would be possible or not, but in any case it is not relevant because such an extension would do nothing to fill the gaps in coverage that exist at this far end of West Tisbury (in the vicinity of the Doane property). Verizon Wireless' signal is very low powered. Sites are needed every few miles to properly cover a town with reliable service because each site only covers a small area (compared with conventional radio) and thus many are needed to interconnect to cover a town the size and shape of West Tisbury.

We have heard some residents question the need for a site in the first place. Wireless carriers such as Verizon Wireless, have a finite amount of money in their budget each year for new site development. Funds are never wasted on unnecessary sites. Money is not spent foolishly. Every site sought is deemed absolutely necessary. Networks are built and improved over time one site at a time. Without new sites, coverage gaps don't improve, they only get worse. As more users utilize a network, available capacity diminishes, coverage footprints shrink. Network capacity can fluctuate seasonally as well as throughout any particular day depending on network traffic and loading. Experienced RF engineers and technical people monitor this and determine when and where new sites are needed. These decisions are based on science and engineering.

Verizon Wireless absolutely needs the subject site to improve its network in this section of West Tisbury. As explained in the Alternate Site Analysis memorandum in this Application package, experienced and knowledgeable site acquisitions professionals who understand the peculiarities and constraints of wireless siting are employed for the site selection process. This is a process that is scientific and methodical, not emotional. We recognize some people will always question this process and that those without wireless knowledge or RF training may believe we have missed something. We anticipate and accept that; we encounter such claims at every zoning hearing we attend. It is only human nature to question others, especially if one is fundamentally opposed to a project for whatever reason.

No matter what site is chosen, or which parcel of land is considered, certain neighbors may object either because they are not wireless users themselves, or if they are, they may possess certain misapprehensions about how wireless service is propagated, how reliable service is analyzed and how suitable sites are chosen. That is expected. Wireless site acquisition is a unique and specialized sub-set of the real estate business that is unfamiliar to most people. The same applies to most utility and infrastructural installations where the

general population ends up utilizing and enjoying the end use of such installations with little understanding of, or appreciation for, the lengthy and often complex process behind their creation.

Moving the proposed site to a different location in Town would simply draw out different neighbors from a new abutters' radius. Continually considering alternate locations will never please everyone. It is expected that a certain core constituency may always be opposed to what is being proposed no matter where it is located. That is true of all planning and zoning generally; it is not unique among wireless petitions. The Board is reminded that their charge is not to please everyone, but to balance the requirements of the Zoning Bylaw, and benefits of the proposed installation, against the perceived harm the installation may cause to the Town in general. In the present instance the harm is nonexistent while the benefits are many.

The Applicant's proposal does not involve any burden on Town services and it will not disrupt a large undeveloped area. Verizon Wireless is simply proposing to erect a single pole, in the woods, upon which antennas will be hung. The proposed pole will be suitable for other wireless carriers to co-locate upon. The end result will be an improvement in wireless communications in that section of West Tisbury - all at no cost to the Town.

In this day of increased demand for uninterrupted wireless services and wireless connectivity, this proposal hardly seems worthy of any controversy or protracted deliberation. We hope the Town welcomes Verizon Wireless' proposal – one which will benefit the residents, public safety officials, businesses, home-based businesses, and persons traveling through that section of West Tisbury. Verizon Wireless is offering a tremendous benefit to the Town. All of this from a single, unmanned, unoccupied, wireless telephone utility pole that is proposed to be erected deep in the woods of its host parcel where the base compound will not be visible to any neighbor from off site. All we propose to do is plant a fake tree in the woods to improve wireless coverage. It is really that simple.

For all the foregoing reasons, the Applicant respectfully requests approval of the Application and Plans as submitted.

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