

**TOWN OF BARRE
ZONING BOARD OF APPEALS
NOVEMBER 13, 2023**

CALL TO ORDER: The board met at the Town Hall with the meeting called to order at 6:30 pm by chair Mr. Keeler of the Planning Board due to a combined meeting and approved by Mr. Coville.

BOARD MEMBERS PRESENT

Steve Coville David Allen
Kelly Dudley Larry Gaylard
Charles Swan

BOARD MEMBERS EXCUSED

Others Present: Jeff Sakolnk, Ryan Jordans, Adrienne Daniels, David Daniels, Matt Sousa, Kriss Sniffen, Beth Wood, Matthew Sousa of MRB Group, Robert Burgdorf esq for Bell Atlantic/dba Verizon Wireless, Town of Barre Attorney Bridget O’Toole, and Sean Pogue

I. APPROVAL OF MEETING MINUTES – October 16, 2023

Mr. Gaylard made a motion to approve the meeting minutes of September 18th meeting with no corrections and seconded by Mr. Allen and carried (5-0).

II. PUBLIC HEARING

Bell Atlantic/dba Verizon Wireless/” Barre Corners”

106-1-73.1

Mr. Keeler stated that the hearing is a joint public hearing the with Zoning Board of Appeals as the application is asking for a height variance along with the site plan review and special use permit. The height variance request was approved at the County Planning Board. The site plan and special use permit was approved with comments and conditions being made of:

1. The telecommunication tower will be 5G compatible per conversations with the Town of Barre
2. The telecommunication tower will allow other providers to use the tower in the future
3. MRB Group has reviewed the site plan, and the engineering fir has updated the site plan based on their review and suggested comments
4. Post the address of the site near the entrance of the property in the event of an emergency so first responders can quickly locate the property.
5. Forward Site Plans to the Orleans County Office of Emergency Management for their comments and review.

The public hearing was opened by Mr. Keeler at 6:47 pm.

Mr. Robert Burgdorf, spoke on behalf of the applicant, explaining the intent of the application. There were no other comments. Mrs. O’Toole suggested leaving the public hearing open for another 10 minutes or so going on to other business in the meantime.

Mr. Sousa from MRB Group stated that the reviewed site plan after the suggested changes were made and approved the changes. Additional comments were:

1. The applicant shall post a security pond to cover the cost of total removal of the tower installation, including the complete restoration of the property to its previous condition. The amount of the bond shall be equal to the amount of the full assessed value of the wireless service facility, plus 20%, which shall be reviewed by the Town Board and Town Assessor every four years
2. The applicant shall submit an agreement between the applicant/owner and the town that governs the roles and responsibilities for the tower removal. The agreement shall be subject to review and approval by the town attorney.
3. The removal estimate provided by the applicant should be revised to list the itemized cost of removal for each component of the project rather than a lump sum
4. The planning board should consider granting the applicant a waiver from Town Code §350-63 (F) (5) requiring the applicant to provide a landscaping plan

All MRB comments related to the site plan have been addressed.

Resolution 27-2023

Introduced by:

Steve Harling

Seconded by:

Jean Peglow

WHEREAS, there being no other comments

THEREFORE, to close the public hearing at 7 pm

UPON ROLL CALL VOTE:

Mr. Coville – Aye
Mr. Allen – Aye
Mrs. Dudley – Aye
Mr. Gaylard – Aye
Mr. Swan – Aye

The resolution passed.

III. NEW BUSINESS

After the public hearing was closed and after the planning board had completed their resolutions, Mr. Keeler turned the meeting to Mr. Coville to complete the height variance section of the application.

Resolution 28-2023

Introduced by: Charles Swan
Seconded by: Larry Gaylard

TOWN OF BARRE PLANNING BOARD RESOLUTION REGARDING BELL ATLANTIC MOBIL SYSTEMS, LLC’S APPLICATION FOR AN AREA VARIANCE FOR THE PROPOSED TELECOMMUNICATION FACILITY TO BE LOCATED AT 14295 WEST BARRE ROAD

WHEREAS, on or about August 31, 2023, Bell Atlantic Mobil Systems, LLC d/b/a Verizon Wireless (the “Applicant”) by its attorneys Nixon Peabody LLP submitted applications for a special use permit, site plan approval and an area variance for a proposed telecommunication facility to be located at 14295 West Barre Road (Tax ID No. 106-1-73.1)(the “Proposed Action”); and

WHEREAS, by letter dated September 26, 2023, the Town’s engineering consultant MRB Group provided comments to the Planning Board on the Proposed Action and requested additional information; and

WHEREAS, on October 10, 2023, the Applicant supplemented its applications in response to MRB Group’s September 26, 2023 comments, and

WHEREAS, the Proposed Action involves the construction of a 174 foot telecommunications facility with a facility area of approximately 10,000 square feet on a 208 acre parcel and

WHEREAS, on October 26, 2023, Orleans County Planning responded to the Town of Barre’s GML 239-m referral with a recommendation of “Approval” with the following conditions:

1. Post the address of the site near the entrance of the property in the event of an emergency so first responders can quickly locate the property,
2. Forward site plans to Orleans County Office of Emergency Management for comment and review; and

WHEREAS, on September 11, 2023, the Planning Board of the Town of Barre declared itself lead agency for purposes of SEQRA review of the proposed action, and

WHEREAS, on September 11, 2023, the Planning Board of the Town of Barre classified the action as an Unlisted Action, and

WHEREAS, on November 13, 2022, the Planning Board and Zoning Board of Appeals held a joint public hearing on the project and public comments were received by members of the public; and

WHEREAS, on November 13, 2023, the Planning Board made a negative declaration of environmental significance for purposes of SEQRA and granted the Applicant a Special Use Permit and Site Plan Approval; and

WHEREAS, after review, the Zoning Board of Appeals has weighed the effects of the Proposed Action against the Town's criteria for an area variance and finds as follows:

1. The Applicant is a public utility.
2. The Proposed Action is necessary to meet current and expected demands for telecommunications services. There is a known area with poor or no cellular service within the Town of Barre that the Proposed Action is anticipated to eliminate.
3. No undesirable change will be produced in the character of the neighborhood, while the use of the surrounding area is primarily agricultural, the Proposed Action will result in increased cellular device coverage for users residing in, working in, or passing through, the town of Barre.
4. In reviewing the engineering analysis provided by the Applicant and consultation with the Town's own engineers, it does not appear that the benefit sought can be achieved without construction of a tower in this location (or any other in the Town) that would not require a height variance.
5. The requested height variance is substantial but appropriate in light of the Applicant's radio-frequency engineering analysis.
6. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district as reflected in the Negative Declaration of Environmental Significance adopted by the Lead Agency.
7. The alleged difficulty is self-created in that the height restrictions existed before the application was made, but is not determinative both because the public need for the utility project and because the Town Code contemplates the possibility of telecommunication towers in this district by special use permit.
8. Relying on the radio-frequency engineering analysis provided by the Applicant, the requested variance is the minimum necessary to address the existing coverage gap.

NOW THEREFORE, the Zoning Board of Appeal does grant an area variance to construct a 174-foot-tall telecommunications facility to the Applicant with the following conditions:

1. The applicant shall post a security bond to cover the cost of total removal of the tower installation, including pad/base, and the complete restoration of the property to its previous condition, including seeding of area. The amount of the bond shall be equal to the amount of the full assessed value of the wireless service facility, plus 20%, which shall be reviewed by the Town Board and Town Assessor every four years;
2. The applicant shall submit an agreement between the applicant/owner and The Town that governs the roles and responsibilities for Tower removal. This agreement shall be subject to review and approval by the Town attorney; and

3. The removal estimate provided by the applicant shall be revised to list the itemized cost of removal for each component of the project rather than a lump sum.

UPON ROLL CALL VOTE:

Mr. Coville – Aye
Mr. Allen – Aye
Mrs. Dudley – Aye
Mr. Gaylard – Aye
Mr. Swan – Aye

The resolution passed.

IV. OLD BUSINESS

Mr. Coville reminded everyone to check on their required training for the year.

IV. ADJORNMENT

Mr. Gaylard made a motion to adjourn the meeting at 7:11 pm; seconded by Mr. Swan and carried (5-0).

Lee A. Preston, Clerk