



16 Merrill Access Road
Thornton, NH 03285

TOWN OF THORNTON PLANNING BOARD

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pbzbassistant@thorntonnh.org

Notice of Decision

Meeting Date: August 19, 2021 – Remanded Application from the Zoning Board of Adjustment
September 7, 2021 – Deliberation continued from August 19, 2021
Plan Name: “Vertex Telecommunications Facility [Tax Map 17, Lot 05-21]”
Application Date: August 25, 2020, as amended (latest amendment filed 02-22-21)
Plan Description: Construct a wireless communication facility.
Map/Lot: Map 17 Lot 5-21
Zone: General Residential
Location: Upper Mad River Road
Owner(s): SMA Realty Trust, Michael C. Sununu and James G. Sununu, Trustees
Agent: Francis Parisi, Vertex Tower Assets, LLC

At the Planning Board meeting held on August 19, 2021 a Site Plan was remanded by the Zoning Board of Adjustment after an Appeal of Administrative Decision was granted on a denied application submitted by Francis Parisi on behalf of property owner SMA Realty Trust, Michael C. Sununu and James G. Sununu, Trustees.

The Planning Board, after hearing the remand on August 19, 2021 and continuing deliberation on September 7, 2021, approved the Site Plan.

MOTION: “To approve the Site Plan for Vertex Tower Assets, LLC as agent for Michael C. Sununu and James G. Sununu, Trustees of the SMA Realty Trust, Upper Mad River Road [Map 17 Lot 5-21] as remanded by Town of Thornton Zoning Board of Adjustment with the following conditions:

- All necessary state and federal permits to be obtained prior to approval, including by not limited to the following:
 - NH-DES – Alteration of Terrain
 - NH-DES – Wetlands
 - US-EPA – Stormwater Pollution Protection Plan (SWPPP)
 - US-EPA – National Environment Policy Act (NEPA) review
 - US-Army Corps of Engineers – General Permit
 - US-Army Corp of Engineers – 404 Permit
 - Federal Aviation Authority (FAA)
- Any and all access to the facility for construction and maintenance activities must be from Upper Mad River Road only.
- On the Title Sheet, delete reference to Tree Line Road and correct “Site Address” to read: Upper Mad River Road.
- Carrier lease must be signed and in hand prior to applying for a Zoning Compliance Application.
- Equipment cabinets and compound must conform to fire containment levels that are acceptable to the Town of Thornton Fire Chief upon date of installation.
- Gated and locked access to the access road using a Knox Box or other security system that is acceptable to the Town of Thornton Fire Chief upon construction and completion.
- Annual inspection of the proposed access road by the Town of Thornton Road Agent.
- The applicant’s engineer to propose a bond amount for the future removal of the tower. The proposed bond amount and the basis for the amount to be reviewed and approved by the Planning Board’s review engineer, Steve Keach, at the expense of the applicant.



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- Compliance with all FAA requirements regarding aviation safety.
- Signature block to be added to each of the following pages in the plan set: Title Sheet and CS-1.
- Applicant to submit a minimum of:
 - Six (6) full size final plan sets (one each for the Town, applicant, property owner and each professional stamping and signing the plan set),
 - One (1) 11x17 final plan set, and
 - One (1) electronic final plan set.
- All conditions of approval set forth in the Notice of Decision from the December 3, 2020 ZBA meeting are to be memorialized.”

Motion: S. Babin

Second: K. Waters

Discussion:

Mr. Rivers reviewed the following from the August 19, 2021 Planning Board Meeting for the record:

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‘Francis Parisi, attorney for Vertex Towers, LLC., stated he was before the Board as a courtesy. He stated the Board based their denial on information that was misunderstood and inaccurate, and he is asking the Board to reconsider their denial. Mr. Parisi stated his client has appealed to Federal Court on the denial of site plan and will pursue the appeal if the Board upholds their decision.

‘Mr. Freeman stated it sounds as if Mr. Parisi is threatening the Board with a lawsuit if the decision is not overturned. Mr. Parisi stated he is not threatening the Board with litigation and would like to avoid going to Federal Court if possible; this is the Board’s opportunity to prevent a lawsuit.’

Mr. Laufenberg stated that he would be supporting the motion, but under distress. He stated, regarding the relationship of the ZBA and Planning Board, that he believes the decision of ZBA was not in the best interest of the Town of Thornton and that they essentially sold out the residents of Thornton. Mr. Laufenberg stated the Telecommunications Facility Ordinance (TFO) was adopted in 2001 by the vote of the people to expressly stop towers of this sort from being built in Thornton.

Mr. Laufenberg stated Vertex Tower Assets, LLC is the first entity to approach the Town seeking variances or waivers for five (5) violations of the zoning ordinances; that alone should have given the ZBA pause. He stated the ZBA clearly did not respect the people’s voice via the TFO.

Mr. Laufenberg further stated he is not opposed to a cell tower being built in town, but he is opposed to a tower being built in a residential area. He stated by allowing the tower in a residential neighborhood, it is setting a precedent for the possibility of further commercial projects seeking to operate in residential neighborhoods. He stated it is unfortunate that the ZBA has put the Board in this situation.

Mr. Laufenberg acknowledged that if the application is denied, the Town will be brought to Federal Court costing the potentially large legal costs in addition to ones already incurred for this case; a case that likely would not end well for the town. Mr. Laufenberg stated as a steward of the people’s tax dollars, he could not justify this. Mr. Laufenberg reiterated his comments that the ZBA did not make the right decision for the Town and has backed the Board into a corner.

Mr. Freeman stated he strongly agreed with all of Mr. Laufenberg’s statements.



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Mr. Babin asked for a roll call vote.

Roll Call Vote:

Steven Babin: **Yes**

Frank Freeman: **No**; Mr. Freeman stated his concerns are the same as they were when the Board took a vote in April to deny the application.

Nancy Decoteau: **Abstained**; Ms. Decoteau stated the ZBA already took her vote away.

Peter Laufenberg: **Yes**

Donna O'Donnell: **Yes**

David Rivers: **Yes**; Mr. Rivers stated the Town needs to save money on legal fees.

Karen Waters: **Yes**

5 YES - 1 NO - 1 ABSTAIN

Motion passes.

For the Thornton Planning Board,

Steven Babin, Chairman
Thornton Planning Board

Cc: Vertex Tower Assets, LLC
Thornton Board of Selectmen
Thornton Town Clerk
Thornton Zoning Board

Note: Any party to the action or any person directly affected has a right to appeal this decision, in a timely fashion as prescribed by the New Hampshire Revised Statutes Annotated, Chapter 677, available at the Thornton Town Office. This notice has been placed on file and made available for public inspection in the records of the Thornton Zoning Board of Adjustment. Copies of this Notice of Decision have been distributed to: The Applicant, Board of Selectmen, Town Clerk, and Zoning Board. A copy of this Notice of Decision has been posted at the Thornton Town Office and on the Town of Thornton website.