



16 Merrill Access Road
Thornton, NH 03285

TOWN OF THORNTON ZONING BOARD

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Notice of Decision

Meeting Date: June 28, 2021
Plan Name: "Vertex Telecommunications Facility [Tax Map 17, Lot 5-21]".
Application Date: May 17, 2021
Plan Purpose: Provide cellular coverage in a known gap of coverage in the area.
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 Zoning Board meeting held on June 28, 2021, the continuation of deliberation from the June 24, 2021 meeting was held to consider the appeal of an administrative decision as submitted by Francis Parisi on behalf of property owner SMA Realty Trust, Michael C. Sununu and James G. Sununu, Trustees. The Zoning Board, after hearing from the Applicant, its agents, and members of the public in attendance and via Zoom/teleconference, partially approved the appeal by making the following motion:

The Zoning Board of Adjustment finds the Planning Board's decision to deny the Site Plan Review of SMA Realty Trust, Francis Parisi – Vertex Tower Assets LLC (collectively "Vertex") made at the April 15, 2021 Meeting (with written decision issued on or about April 22, 2021) to be unreasonable and that the Planning Board's interpretation of the Telecommunications Facility Ordinance ("TFO"), and the waiver and variances granted by the Zoning Board of Adjustment associated with this Site Plan to be incorrect.

Accordingly, the Zoning Board hereby grants, in part, Vertex's Appeal of Administrative Decision and remands the Site Plan back to the Planning Board to follow the express provisions of the TFO, and the waiver and variances granted by the Zoning Board and with the following express concerns of the Zoning Board to be addressed:

Re: Reasoning for Denial Statement 1

The proposal does not comply with Article VI (A) of the Thornton Site Plan Regulations, in that it presents significant life safety concerns arising from the proposed driveway. Specifically, the evidence in the record shows that the driveway will have areas that are at a 20% grade, and that emergency and safety vehicles will not be able to respond to the site in the event of an emergency.

1. Is there a definitive public life safety issue present in this Site Plan in light of the terms of the TFO and the waiver and variances granted by the Zoning Board?
 - The driveway will be private, with trained professionals accessing it, and a gate prohibiting public access.
 - The Zoning Board required this driveway to be used as a condition of approval.
 - A letter submitted on April 14, 2021 by Fire Chief Defosse to the Planning Board indicates the grade of the road does not show evidence of a significant life safety issue.
 - The Affidavit of Jesse M. Moreno, P.E. further clarifies the issue of emergency site access.



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2. Specifically, what fire safety issues does the Planning Board have regarding the equipment containers and gravel pad site for this Project?
 - A plan for how fire concerns are addressed was submitted by Vertex to the Planning Board and seems to have been ignored by the Planning Board.
 - The provisions of the TFO acknowledge limited concerns with these types of projects.
 - The Zoning Board's variances included a provision allowing for vegetation to be kept away from the fenced pad site for this Cell Tower further mitigating fire issues.
3. Why is it important that the access driveway have year-round access to emergency vehicles?
 - The provisions of the TFO acknowledge existing driveways are to be used and do not contain a slope or access requirement with these types of projects.

Re: Reasoning for Denial Statement 2

The proposal poses significant environmental concerns, in that the project, as proposed, does not properly address storm water drainage and mitigation. The evidence presented to the Board shows that there is a heightened risk of flooding using the storm water mitigation currently being proposed, which will negatively impact the Mad River watershed. Although the proposal does attempt to account for a 25-year event, this is the minimum requirement under the Site Plan Regulations, and the Board has the right, and indeed the obligation, to require a greater level of storm water mitigation depending upon the property under review.

1. Why will environmental reviews and reports from NHDES and EPA not be sufficient?
 - Permits from NHDES and EPA will need to be obtained by the applicant before any construction can begin and were agreed upon by Vertex as conditions of approval.
2. Why was Vertex not asked for a 50-year storm event road plan prior to the meeting on April 15, 2021?
3. Where will flooding be a concern?
 - There was no evidence submitted to indicate if flooding would occur.
 - The Site Plan Regulations (pages 12 & 13) appear to only require designs for 25-year storm events and for "flows at the property line".
4. Would the Planning Board reconsider their stance on the driveway being rated for a 25-year storm event if any stormwater basins shown on the Site Plan are rated higher?
 - An affidavit submitted on June 16, 2021 from Jesse M. Moreno, P.E., states that the stormwater basins on the final site plan are designed for 50-year storm event. This affidavit should be reviewed for consideration.
5. The report from Myrtle Lewis, Chair of the Thornton Conservation Commission, including the statement that the Conservation Commission was "duly impressed" by the Site Plan, should be re-evaluated.



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6. Why were conditions of approval drafted for but not discussed at the April 15, 2021 meeting?

The Planning Board should take this remanded Site Plan up at the Planning Board's next available meeting and should avoid any dilatory tactics to prolong the process of the potential approval of this Site Plan.

The Zoning Board otherwise denies Vertex's Appeal of Administrative Decision to the extent that the Appeal calls for the Zoning Board to grant the Site Plan Approval. The Zoning Board does not believe that it has the authority to issue a Site Plan Approval.

Motion: J. Marshall

Second: J. Sobolewski

Discussion: None

Roll Call Vote: 4 - YES, 0- NO, 0- Abstained

Motion passes.

For the Thornton Zoning Board,

Joseph M. Monti, Chairman
Thornton Zoning Board
July 1, 2021

Cc: Thornton Board of Selectmen
Thornton Town Clerk
Thornton Planning 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 Planning Board. A copy of this Notice of Decision has been posted at the Thornton Town Office and on the Town of Thornton website.