

# TOWN OF THORNTON

## Zoning Board of Adjustment

Approved on: 19 Dec 2022  
ZBA Initials: JMM  
Rec'd by Town Clerk on: 12/20/22  
Town Clerk Initials: [Signature]

### ZONING BOARD OF ADJUSTMENT MEETING MINUTES

November 21, 2022

#### WELCOME:

Chairman Joe Monti welcomed the members.

#### CALL TO ORDER BY CHAIR:

Mr. Monti called the meeting to order at 6:00 p.m. with the Pledge of Allegiance.

#### ROLL CALL BY CHAIRMAN:

Mr. Monti completed the roll call.

**The following members were present:** Chairman Joe Monti, Vice-Chairman Jerry Sobolewski, Alan Rawson, Joan Marshall, Maureen Patti

**The following members were absent:** Kerrin Randall, Board Assistant

**Others Present on Zoom (names are as they appeared):** Francis Parisi, Sally Davis, Charlie Pike

Mr. Monti thanked Mr. Sobolewski for setting up the meeting in his absence over the past week.

#### REVIEW/APPROVAL OF MINUTES:

Upon distribution and review of the meeting minutes of October 27, 2022 the members took the following action:

**MOTION: "To accept and approve the Minutes of the October 27, 2022 meeting as amended."**

**Motion:** M. Patti

**Second:** A. Rawson

**Discussion:** None

**Vote:** 4 - YES, 0 - NO, 1 - ABSTAIN (J. Marshall)

**Motion passes.**

Ms. Patti asked that approval of the September 22, 2022 meeting minutes be added to the December agenda, as they were unable to be approved at the last meeting.

Mr. Monti suggested the agenda be amended to accommodate those on Zoom present for the Vertex Tower Assets, LLC request and the Board agreed.

#### COMMUNICATIONS AND MISCELLANEOUS:

- Vertex Tower Assets, LLC Request for Extension

Mr. Monti reminded the Board and members of the public that this was a public meeting, and not a public hearing. He asked Mr. Parisi to review his request.

Mr. Parisi reviewed that Vertex Tower Assets, LLC received a waiver and four (4) variances on December 9, 2020 from the Town of Thornton Zoning Board to construct and operate a wireless communications facility off Upper Mad River Road. He stated that due to circumstances beyond its control, including a lengthy Planning Board review and appeal, and required federal and state regulatory review, all of which have been slowed by the pandemic, construction of the facility has not been able to begin.

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Mr. Parisi stated Vertex is respectfully asking for an extension of the approved waiver and variances for two (2) years, December 3, 2024. He commented that it was unknown to him that the time to act on the variances began at the time of approval from the ZBA. Mr. Parisi stated after the ZBA approved the waiver and variances, it took an additional 6-8 months to have the application go through the Planning Board.

Mr. Monti clarified that per RSA 674:33, variances authorized by the ZBA shall be valid if exercised within two (2) years from the date of final approval, or as further extended by local ordinance or by the zoning board of adjustment for good cause, provided that no such variance shall expire within 6 months after the resolution of a planning application filed in reliance upon the variance.

Mr. Monti commented that counsel has advised that extension requests such as these are normal procedure. Mr. Monti clarified that the project was not able to be started due to circumstances beyond the applicant's control including the timing of the application process, the pandemic, and staffing issues at the State and federal level. Mr. Parisi stated that was correct.

Mr. Monti asked for questions from the Board, and there were none.

**MOTION: "To grant the Request for Extension to December 3, 2024 as the Board found that good cause exists for such an extension, as:**

- The subject Application incurred a lengthy approval process before the Thornton Planning Board;
- The subject Application faced delay due to one or more Court proceedings being filed against it;
- The subject Application faced delay due to COVID-19 related regulatory staff shortages at the State and Federal level;
- Such State and Federal Regulators have only recently had staff available for review of Applicant's various filings; and
- The requested extension is reasonable under the circumstances."

**Motion:** A. Rawson

**Second:** M. Patti

**Vote:** 5 - YES, 0 - NO, 0 - ABSTAIN

**Motion passes.**

Mr. Paris thanked the Board and exited the meeting.

### OLD BUSINESS:

#### Review of Rules of Procedures for 2022

The Board reviewed and discussed proposed amendments to the rules of procedure regarding the use of Zoom during meetings.

The Board asked that subsections A and B (as listed below) are added to the Rules of Procedure for final reading and approval at the December 19 meeting.

### MEETINGS

- 1. Meetings:** The Board shall meet a minimum of two times each year. Any Public Hearing held by the Zoning Board of Adjustment may be counted as a meeting.
  - Meetings may be attended by the public via Zoom, with the link to the meeting provided on the meeting agenda. Members of the public may signal any intent to comment or ask questions using the SIGNALS tool on the Zoom platform.

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- b. Board members may attend meetings, participate in the decision-making process, and participate in roll-call votes via Zoom; however, a quorum of the Board [three (3)] must be present in person to conduct a meeting.

Board members participation via zoom should be the exception, and, when possible, members must notify the Chair 48-hours in advance if participating via Zoom.

Ms. Randall will update the Rules of Procedure accordingly.

### COMMUNICATIONS AND MISCELLANEOUS:

- Meeting Information on Website

Mr. Monti stated that, as a quasi-judicial board, the ZBA should use all the tools at their disposal to be as transparent as possible for the public and applicants. On that note, he proposed that all read-ahead materials that the ZBA receives prior to a hearing be posted online; this will provide complete transparency as well as valuable information for the public.

Mr. Monti reviewed that Ms. Randall has done some research with other towns and the information is in their packets for review. He stated that the read-ahead information would be posted on the website a week prior to the meeting and taken down after the meeting; similar to how the paper copies are distributed. Discussion on the timeline for materials to be posted and removed from the website occurred.

Ms. Marshall asked if there would be an electronic copy of the read-ahead materials at town hall once the meeting has concluded and the information has been removed from the website, and Mr. Monti stated he will ask Ms. Radndall.

Mr. Sobolewski asked how long materials for a public hearing would remain on the website if the hearing were continued for months, i.e., Vertex. Mr. Monti stated that as long as the hearing is open, the read-ahead should be posted, but that process will need to be thought out a bit more after speaking to Counsel and Ms. Randall. Discussion on when to remove read-ahead items continued.

Mr. Rawson suggested that materials for a public hearing be removed once a notice of decision is rendered and posted and the Board agreed to that idea. Ms. Patti asked when materials for meetings when there are no public hearings would be removed, and Mr. Monti commented that meeting minutes must be available for public review withing five (5) business days and suggested that once the draft minutes are out to the Board, the materials could be removed from the web.

Ms. Marshall asked how difficult the proposed process would be, and Mr. Monti commented that the topic will be discussed again with Ms. Randall to determine the best course of action for implementing this.

Ms. Patti commented that any read-ahead materials from Counsel should not be included in the public read-ahead materials and Mr. Monti stated they will ask Counsel for their thoughts on what should not be posted.

Mr. Rawson asked how many questions are asked about upcoming hearings, and who answers those questions and Mr. Monti stated nobody answers them. He commented that all agendas tell residents to go to Town Hall to review the applications, but the person with all the information is not there; this is the problem they are trying to solve.

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**MOTION: "To have further dialogue and discussion of a new practice of posting ZBA meeting read-ahead materials on the Town Website in order to see if there is a viable procedure to facilitate it."**

**Motion:** M. Patti

**Second:** J. Marshall

**Discussion:** None

**Vote:** 5 - YES, 0 - NO, 0 - ABSTAIN

**Motion passes.**

### **OTHER BUSINESS:**

Mr. Monti stated there will be a non-meeting with Counsel on Monday, December 5, 2022 at 7:00 p.m. to discuss the posting of meeting materials online, as well as Attorney Boldt's response to how lots with no road frontage should be addressed moving forward.

Mr. Rawson asked if Town legal counsel had reviewed the position paper that Attorney Boldt drafted, and Mr. Monti stated no. He reviewed that the non-meeting is to discuss the paper drafted by Attorney Boldt in order to determine the next step. Discussion on the processes of town Boards and their respective counsels, and how they can communicate occurred. The Board agreed to continue the discussion with Attorney Boldt at the non-meeting on December 5, 2022 at 7:00 p.m.

### **ADJOURNMENT:**

**MOTION: "To adjourn at 7:10 p.m."**

**Motion:** M. Patti

**Second:** J. Marshall

**Discussion:** None

**Vote:** 5 - YES, 0 - NO, 0 - ABSTAIN

**Motion Passes.**

Respectfully submitted,

Kerrin Randall

Zoning Board Assistant