TOWN OF ASHFIELD
PLANNING BOARD
SEPTEMBER 22, 2021

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APPLICATION FOR SPECIAL PERMIT (Planning Board) FOR TELECOMMUNICATIONS TOWER

Applicant: Vertex Tower Assets, LLC
Property Address: Baptist Corner Road, Ashfield MA 01370
Tax Assessors: 4-0-27
Property Owner: Pollen Family Realty, LLC

PROCEDURAL HISTORY
07/07/21 Application Filed
07/07/21 Preliminary Consultation with Planning Board (also 7/21, 8/4, 8/18 and 9/1)
08/24/21 Visibility Demonstration (also 8/29, 8/30, 9/1, 9/4, 9/8)
09/08/21 Planning Board Site Visit
09/22/21 Public Hearing
Vertex Towers is a telecommunications infrastructure developer. We develop, manage and own telecommunications facilities in strategic locations across the country. The Vertex team has been working in the industry for over 20 years and has the experience and expertise to navigate the challenges of the most complex markets.

Vertex's on the ground experience and expertise allows us to identify the opportunities and locations where there is a need for new telecommunications facilities. Identifying where a new facility is needed is only half of the equation. Strict zoning ordinances and environmental regulations require that new telecommunication facilities take into consideration not only the needs of the wireless provider but also potential permitting obstacles and construction costs. The Vertex team has the experience necessary to identify, permit and construct the best site for the property owner, the wireless provider and the municipality.
1. Application for a Special Permit
2. Filing Fees
3. Abutters List
4. Letter of Authorization
5. Project Narrative
6. TOWAIR (FAA Analysis re No Hazard to Air Navigation)
7. Affidavit of Site Acquisition Specialist
8. Affidavit of RF Engineer and RF Coverage Maps
9. Site Emissions Report
10. Removal Cost Estimate and form of Removal Bond
11. Site Plans
Application Package

Supplement No. 1
1. Preliminary NEPA Screening Report

Supplement No. 2
1. Proposed Visibility Demonstration Public Notice

Supplement No. 3
1. Visibility Demonstration Public Notice (final)
   • Ran in Greenfield Reporter and Daily Hampshire Gazette on 8/25/21
2. Planning Board Form 2
3. Planning Board Form 3
4. Additional Coverage Maps (height analysis)
5. Photographic Simulation Package

PLAPC 09/22/21
Wireless communications is not just a public convenience; it is a public safety necessity.

- There are now more wireless subscriptions than landline telephone subscriptions in the United States.
- More than 50% of American homes are “wireless only”
- More than 70% of 911 calls are made from mobile phones.

Ashfield has a verifiable “gap” in wireless coverage that limits its access to rapidly evolving wireless services. “Without a cell site located at or very near the proposed site, this area of Ashfield, MA would not meet the typical coverage requirements for multiple wireless carriers, resulting in a substantial gap in wireless coverage”.

Report of Radio Frequency Engineer
“Poor quality or non-existent telecommunications services are jeopardizing the health and safety of our residents and are constraining economic development in New Hampshire’s Lakes Region,” stated the letter signed by Executive Director Jeffrey Hayes of the Lakes Region Planning Commission and numerous municipal officials.

“Just as telecommunications providers were required to supply landline service decades ago, wireless service has become the ‘life line’ replacement for wired services. The requirements of outdated technologies must be carried forward to the more modern replacement technologies. Failing to do so has serious and well-established safety and economic concerns.”

“It’s a big-time problem for our community.”
WHY HERE?

WHY BAPTIST CORNER ROAD

Given the location (and lack) of existing wireless infrastructure, the topography and terrain, the lack of existing tall structures in and around Ashfield, zoning and other land use restrictions (i.e. wetlands and conservation land), “the proposed [facility] to be located off of Baptist Corner Road is the least intrusive and only available and viable alternative to provide adequate coverage to this significant gap in coverage.”

Report of Site Acquisition Specialist
Lack of Existing Infrastructure
Very Challenging Topography
A SIGNIFICANT GAP IN COVERAGE

RF Existing Coverage Without VT-MA-0012A@105'

LEGEND
Site Info
Site: VT-MA-0012A
Lat: 42.536833 Lon: -72.798323
Elev: 1,576 ft

Plot Information
700 MHz LTE RSRP

Symbol Key
★ Proposed Site
● Existing Site

Existing Coverage @108dBm

0.0 0.5 1.0 Miles
BAPTIST CORNER ROAD
52 acre undeveloped parcel with powerline

Access off of Baptist Corner Rd around existing electric substation and along existing powerline access driveway

Substantial vegetative buffer
AMPLE SETBACKS

> 125% tower height setback from all abutting property lines

> 500% tower height setback from closest residential

> 1000% tower height setback from schools, parks, historic district
55’ x 65’ fenced in compound, containing ground based telecommunications equipment in weather-proof cabinets and backup power batteries

6’ fence with barbed wire

Ample temporary parking space for maintenance vehicles
Tower Type: “Monopine”

Height: 110’ (116’ to top of branches)

Designed to support:  Verizon  
AT&T / FirstNet  
T-Mobile / Sprint  
DISH Networks  
local public safety

Construction & Design Standards:
Telecommunications Industry Assn. (TIA)  
American Society of Safety Eng’s (ASSE)  
American National Standards Ins. (ANSI)

Design Criteria:
Will satisfy county specific wind and ice loading standards
SATISFIES COVERAGE OBJECTIVE

RF Existing & Proposed Coverage For VT-MA-0012A@105'

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Vertex proposed Coverage -100dBm
Existing Coverage -100dBm
The maximum permissible RF exposure limits adopted by the FCC for both general population/uncontrolled exposure and for occupational/controlled exposure incorporate a substantial margin of safety and have been established to be well below levels generally accepted as having the potential to cause adverse health effects.

Even at the lowest heights on the tower, and especially given the height of the tower and ample setbacks, the RF emissions from the tower will be WELL BELOW (less than .6 % of) applicable FCC limits for general public exposure.
The Applicant conducted a Visibility Demonstration to illustrate the location and height of the proposed Facility by raising a balloon at and to the height of the proposed Facility from 9:00 am to 5:00 pm on

Saturday, August 28, 2021;
Sunday August 29, 2021;
Monday, August 30, 2021;
Wednesday, September 1, 2021;
Saturday, September 4, 2021; and
Wednesday, September 8, 2021
The proposed Facility has been designed to satisfy the Town’s Bylaw as much as possible.

The location of the proposed Facility is on a very large heavily treed lot on which there is a powerline easement. Meets all requires setbacks.

The Facility has been located and designed to minimize visibility as much as possible. No FAA lighting or marking will be required. No signs on tower. Monopine design. Utilizes existing powerline driveway. Security fencing.

There are no other structures of sufficient height anywhere near the Property which would provide the requisite telecommunications coverage.

As a wireless infrastructure developer, Vertex encourages co-location and has relationships with all of the existing wireless telecommunications carriers licensed in this market and intends to provide space on the proposed Facility at commercially reasonable rates, which will minimize the total number of towers in the community.
b. No facility shall exceed 80 feet in height as measured from the mean finished grade at the facility base. Exterior lighting of the tower and accessory structures shall be prohibited.

The Facility will exceed 80’ in height. However, the Facility has been designed to be as visually unobtrusive as possible, given the coverage objective and other technical requirements and limitations. The Facility will be sited to minimize the visibility of the Facility as much as possible from adjacent properties and shall be suitably screened from abutters and public rights of way. Moreover, the tower has been designed to be the minimum height necessary to satisfy the coverage needs of multiple wireless carriers. The Facility will be amply set back from abutting properties and buffered by a dense stand of existing trees, and as such will be as unobtrusive as much as possible to reduce the visual impact of the Facility. However, in order to construct a facility at the Property that provides the requisite telecommunications coverage and accommodate multiple telecommunications carriers, the Facility must be 110’ in height (116’ to top of camouflaging tree “topper”). The proposed Facility will not require FAA lighting or marking. Accordingly, the Applicant respectfully requests that the Planning Board grant the Special Permit for the proposed Facility with a condition pursuant to VI.F.2.L that the Facility may be constructed to the height proposed in the Site Plans.
d. Facilities shall not be located within 100 feet of the crest or ridgeline or 500 feet of a summit of a hill and shall be located in such a way as to minimize the visual impact of the facility when viewed offsite. Notwithstanding the previous sentence, if in the opinion of the Planning Board such other location would be the least detrimental to the overall purpose of this section (6F), then such siting may be allowed.

The proposed Facility will be located within 500 feet of a summit of a hill but will be buffered by a dense stand of existing trees in such a way as to minimize the visual impact of the facility when viewed offsite. Given (i) the existing power transmission line already on the Property; (ii) the existing power transmission line access driveway (the use of which will require only minimal additional tree clearing; (iii) the location of the proposed Facility in a pre-existing clearing (also reducing the amount of additional tree clearing); (iv) the extremely challenging area topography; (v) the existing coverage gap along Routes 116 and 112; (vi) the lack of viable alternatives; and (vii) the Town’s desire for facilities which will accommodate the maximum number of users technologically practical; the location of the proposed Facility will be the least detrimental to the overall purpose of Section 6F.
Before granting a Special Permit, the SPCA shall review the activity, traffic, site plan, and building design and shall find all of the following general conditions to be fulfilled:

1. The proposal will not overload any public water, drainage or sewer system or any other municipal services to such an extent that the Town will be unduly subjected to hazards affecting health, safety, or general welfare;

2. The impact on adjoining premises of sound, light, odor, noise, and other disturbances is avoided or minimized;

3. The proposal will avoid or minimize topographic change, unnecessary removal of mature trees, shrubs, or other botanical assets, erosion or siltation, storm water runoff, or displacement of rare or natural wildlife habitats;

4. The proposal will not cause surface or groundwater pollution, surface or subsurface drainage detrimental to abutting properties, or other adverse effects upon the natural environment in the area where the use is located;

5. There is adequate traffic safety at entrances to public ways;

6. The proposal is compatible with the neighborhood character; and

7. Additional requirements before listed under General Regulations for Alterations, Off Premises Signs, and Driveways, and under Use Regulation.
The use is passive in nature and will not pollute waterways or groundwater. There will be only a de minimus increase in impervious surfaces, and removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. The use will not generate any noise, smoke, dust, heat, glare or discharge of noxious substances. Other than what is necessary for the construction of a 55’ x 65’ compound and extension of the existing driveway to the base of the compound, all existing on-site vegetation shall be preserved and clearing of land shall be performed in a manner which will maximize preservation of natural beauty and conservation of natural resources as much as possible. Moreover, the proposed location will utilize the exiting power transmission line driveway and be located in an existing tree clearing, further minimizing the removal of mature trees, shrubs and other botanical assets, and had been designed to prevent erosion and stormwater runoff. Once constructed, the Facility will be unmanned and will involve only periodic visits one or two vehicle trips per month by maintenance and technical personnel to ensure the telecommunications site remains in good working order, which will not result in any material increase in traffic or disruption to patterns of access or egress that will cause congestion hazards or cause a substantial change in the established neighborhood character.

The intent of the TCA as enacted by Congress was to institute a framework to promote competition and innovation within the telecommunications industry.

Law specifically preserves local zoning authority with respect to the siting of wireless service facilities, but it clarifies when the exercise of local zoning authority may be preempted by federal law.

- SECTION 704 (7) PRESERVATION OF LOCAL ZONING AUTHORITY-
  - (A) GENERAL AUTHORITY- Except as provided in this paragraph, nothing in this Act shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities.
  - (B) LIMITATIONS- (i) The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof--
    - (I) shall not unreasonably discriminate among providers of functionally equivalent services; and
    - (II) shall not prohibit or have the effect of prohibiting the provision of personal wireless services.
The Applicant's application is governed by the TCA which "imposes specific limitations on the traditional authority of state and local governments to regulate the location, construction, and modification of such facilities...47 U.S.C. § 332(c)(7)." City of Rancho Palos Verdes v. Abrams, 544 U.S. 113, 115-116 (U.S. 2005).

Under this provision, local governments shall not take actions that "prohibit or have the effect of prohibiting the provision of personal wireless services,"§ 332(c)(7)(B)(i)(II), and any decision denying such a request must "be in writing and supported by substantial evidence contained in a written record,"§ 332(c)(7)(B)(iii). Id.

The TCA overrides boards that do not decide matters based upon the merits of local ordinances and, instead, yield inappropriately to ill-founded opposition. Brehmer v. Planning Board of Town of Wellfleet, 238F.3d117, 122 (1stCir.2001), citing Roberts v. Southwestern Bell Mobile Sys., Inc., 429 Mass. 478, 709 N.E.2d 798, 806 (1999) ("Congress certainly intended to protect providers of [personal wireless] services from irrational or substanceless decisions by local authorities who might bend to community opposition to these facilities."). See also Southwestern Bell Mobile Systems, Inc., d/b/a Cellular One v. Todd, 244F.3d 51,57-58 (1stCir. 2001) (TCA protects against overzealous or parochial regulation at the local level); Town of Amherst v. Omnipoint Communications Enterprises, Inc., 173 F.3d 9 (1st Cir.1999).

Moreover, the TCA specifically states that “[n]o State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission’s regulations concerning such emissions” 47 U.S.C. § 332(c)(7)(B)(iv).

The Board cannot rely upon generalities about visual impacts that are not "grounded in the specifics of the case." New Cingular Wireless PCS LLC v. Town of Stow, 2009 WL2018450 (D. Mass. 2009) at *8 ("bare conclusory assertions" are not substantial evidence), citing Todd, 244 F.3d at 61. The Board cannot rely on generalized concerns that "refer to negative comments that are applicable to any tower regardless of location." Todd, 244 F.3d at 61 (visual impact). See also SBA Towers, supra; Nextel Communications of the Mid-Atlantic, Inc. v. Town of Sudbury, 2003 WL 543383 (D. Mass. 2003) (same) and cases cited.
VERTEX TOWER ASSETS, LLC respectfully requests a SPECIAL PERMIT to construct the TELECOMMUNICATIONS TOWER as proposed.

- The proposed Facility meets all of the siting criteria for a telecommunications tower under the Town’s Zoning Ordinance other than those provisions for which waivers or conditions have been requested.

- The proposed Facility meets all of the requirements for a Special Permit.

- The proposed Facility is required to close a substantial COVERAGE GAP and represents the ONLY VIABLE ALTERNATIVE.

- Pursuant to §704(a) of the Federal Telecommunications Act of 1996 which provides, among other things, that wireless facilities may not be prohibited in any particular area and that any denial of zoning relief must be based upon substantial evidence.

Accordingly, VERTEX TOWER ASSETS, LLC respectfully requests that the PLANNING BOARD GRANT A SPECIAL PERMIT as requested, and grant such other relief deemed necessary by the Planning Board so that the Applicant may construct and operate the proposed Facility.