



# TOWN OF STURBRIDGE

*Zoning Board of Appeals*

## VARIANCE DECISION/DETAILED RECORD

### THE COMMONWEALTH OF MASSACHUSETTS TOWN OF STURBRIDGE

January 22, 2024

**File # ZB-2023-000024**

The members of the Permit Granting Authority hereby certify that the following is a detailed record of all the Board's proceedings regarding the petition of Vertex Towers, LLC whose address is c/o Parisi Law Associates, 225 Dyer Street, Providence, RI 02903 regarding property owned by Pamela Soper, Trustee of the Pamela A. Soper 2009 Irrevocable Trust located at **92 Stallion Hill Road, Sturbridge, MA. 01566, (Book 45302 Page 267)** which is the property affected by this variance request.

The application to the Board is dated November 20, 2023 and was received by the Board and the Town Clerk on November 20, 2023. The application requests a variance from Article XIV, §300-14.2 Table of Standards which requires 150' of frontage on a street to permit the construction and operation of a wireless communications facility where 100' is provided.

A notice of the public hearing on this Variance was:

1. Published in the Southbridge Evening News, a newspaper of general circulation in the Town of Sturbridge on December 28, 2023 and January 4, 2023;
2. Posted in a conspicuous place in the town hall at least fourteen days before the hearing was held on January 17, 2024, and;
3. Mailed on December 15, 2023 postage prepaid (certificate of mailing), at least fourteen days before the hearing to the petitioner, abutters to the property in question, owners of land directly opposite from the property in question on any private or public street or way, abutters to abutters whose property is located within three hundred feet of the property line of the property in question, the Planning Board of the Town of Sturbridge and the Planning Board of abutting cities and towns including the Towns of Brimfield, Brookfield, Charlton, East Brookfield, Holland, Southbridge, and Union. The notice was mailed to the names of persons and at the addresses as provided by the most recent tax list kept by the Town Assessors, with the Assessors certifying such names and addresses.

The applicant submitted the following documents:

- Completed application for Variance
- Filing Fees

- Certified list of abutters
- Copy of the Deed
- Letter of Authorization from the property owner to allow Vertex Towers, LLC and any designated agents to apply for all necessary municipal, state, federal and other permits necessary to accommodate the installation of the wireless communications facility
- Project Narrative
- Report of Site Acquisition Specialist
- Report of RF Engineer and RF Coverage Maps
- Site Plan entitled “Vertex Towers Sturbridge MA VT-MA-3155D – 92 Stallion Hill Road, Sturbridge, MA 01566.” Plan prepared by Dewberry Engineers Inc. – 99 Summer Street, Suite 700 – Boston, MA 02110. Plan date 7/26/2023 revised through 11/01/2023.

The Public Hearing on this application was held on January 17, 2023 at 6:35 PM there was one interested party present. No abutters spoke in favor or opposition to the Variance requested. The following regular members of the Board present were: Diane Trapasso, Elizabeth Banks, Josh Cole, Maryann Thorpe and Tom Welch.

At the close of the Public Hearing on January 17, 2024, the Board discussed the petition in relation to the required Findings.

**As to Required Finding # 1 - Soil Conditions, shape or topography of the property, which condition especially affects the property, but does not generally affect other property in the zoning district;**

The Board found that this property was originally retained with 100’ of frontage by Mr. Duquette in the 1950s. According to records, he had originally proposed to retain this land for the development of a subdivision. The property was purchased by Mr. Soper in 1989 with the intent of building the road and dividing the property into lots. After review, it was determined the topography was not conducive to the construction of a roadway and it was also determined there was ledge on the property that would further impede the development.

The topography, shape and steep grade of the parcel, combined with ledge led Mr. Soper to seek a variance to build a single family home. That variance was granted and the home is now constructed. The Board further found that nothing has changed in regards to the soil conditions, shape or topography of this property since that time. This parcel remains unique in that respect.

Based upon the above, a motion was made by Ms. Banks and seconded by Mr. Cole and voted 5-0, to find that the variance request meets criteria #1 that states that soil conditions, shape or topography of the property, which condition especially affects the property, but does not generally affect other property in the zoning district.

**As to Required Finding # 2: That there is a hardship;**

The Board found that based upon the information submitted, the land has been granted a frontage variance in the past and it was determined to be a hardship due to circumstances related to the topography, shape and soil conditions of the property. Additionally, based upon information provided at the Hearing by Mr. David Maxson, WCP, of Isotrope, LLC (a Peer Reviewer obtained to review the proposal for the Board) the Board found that this particular location takes advantage of the unique characteristics of the property and will provide reliable wireless service to the residents and visitors to the Town. Based upon testimony provided, it is reasonable to conclude that more than one facility would need to be constructed to provide the same level of service as this location. Therefore, there is also a hardship of the general population not having reliable service, as well as a hardship that not utilizing this location may require additional facilities thus rendering the provision of service un-economic.

A motion was made by Ms. Banks and seconded by Mr. Walsh and voted 5-0, to find that the variance request meets criteria #2 that states that there is a hardship;

**As to Required Finding # 3: That the variance could be granted “without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such by-law”.**

The Board found that granting of this variance will not be a detriment to the public good as the property has already received a variance to the frontage requirement. The existing driveway will be used and after construction, this facility will not be manned. Only periodic visits to the facility will be made. The bylaw specifically allows wireless communications facilities so this proposal will not derogate from the intent and the purpose of the bylaw.

A motion was made by Ms. Banks, seconded by Mr. Cole and voted 5-0, to find that the variance request meets criteria # 3 that states the variance could be granted “without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such by-law.

After finding that the required criteria for the grant of a variance has been met a motion was made by Ms. Banks, seconded by Mr. Walsh and voted 5-0 to approve the variance requested to allow the construction and operation of a wireless communications facility on a parcel that contains 100’ frontage where 150’ frontage is required as shown on the plans and supporting documents submitted and noted above.

The following members were present and voting as follows with respect to the requested Variance:

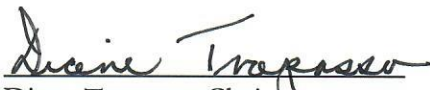
- Member Elizabeth Banks voting to grant the variance requested.
- Member Josh Cole voting to grant the variance requested.
- Member Maryann Thorpe, voting to grant the variance requested.
- Member Diane Trapasso voting to grant the variance requested.
- Member Thomas Walsh voting to grant the variance requested.

The Board granted the above variance because based upon the information provided; they did make the finding that the applicant met the criteria for the granting of a variance.

M.G.L. Ch. 40A, § 10 requires that the grant of a variance be made only where the Board of Appeals finds the three required findings have been reached in the affirmative as detailed above.

Copies of this decision have been filed with the Zoning Board of Appeals Office, the Town Clerk's Office and the Office of the Planning Board as required by M.G.L. Ch. 40A, § 11.

Any appeal of this decision of the Zoning Board of Appeals must be made to a court of competent jurisdiction within twenty days from the date this decision was filed with the Sturbridge Town Clerk, pursuant to Section 17, Chapter 40A of the general laws of the Commonwealth of Massachusetts as amended.



Diane Trapasso, Chair  
Zoning Board of Appeals

Copy to:

Applicant  
Town Clerk  
Building Inspector  
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