



TOWN OF AMENIA

4988 Route 22, AMENIA, NY 12501
TEL: 845-373-8860, x118 FAX: 845-373-9147

RECEIVED

JUL 20 2022

Amenia Town Clerk

TOWN OF AMENIA ZONING BOARD OF APPEALS

Resolution # 3 for 2022

GRANTING 6-MONTH EXTENSION TO SATISFY CERTAIN CONDITIONS OF RENEWAL OF SPECIAL USE PERMIT/AREA VARIANCE FOR SBA 2012 TC ASSETS, LLC

July 18, 2022

WHEREAS, on or about December 8, 2021, the Town of Amenia Zoning Board of Appeals (“ZBA”) granted SBA 2012 TC Assets, LLC (“SBA”) a renewal (the “Renewal”) of its prior 2002 and 2011 special use permit and area variance approvals (the “Prior Approvals”) for a telecommunications tower and related facilities (the “Facility”) constructed on a wooded portion of a 10.53 acre parcel of land abutting Route 44, owned by Carlton P. Bates and Merium R. Bates, bearing Tax ID No. 7067-00-572230 (the "Property"); and

WHEREAS, the Renewal included several conditions modifying or supplementing conditions in the Prior Approvals including:

1. Within six months of the effective date of this resolution, SBA shall conduct maintenance of the landscaping required by the 2011 Approvals and consistent with the approved February 2012 landscaping plan. This shall include general maintenance of existing vegetation and the replacement of any dead or dying plantings depicted on the 2012 landscaping plan. SBA shall provide written confirmation of the implementation of the landscaping plan to the Town engineer, and the Town engineer shall report to the ZBA on SBA’s compliance with this condition. SBA shall continuously maintain the landscaping required by the February 2012 landscaping plan and shall replace any dead or dying trees as necessary to provide the required screening effect.
2. SBA shall take measures to ensure that there is no lapse in operation of the Facility due to electrical failure. Within six months of the effective date of this resolution: (1) SBA shall cause a permanent emergency back-up generator to be installed on the Property based on specifications approved by the Town’s engineer; and (2) SBA shall enter into a service agreement for the maintenance and repair of the approved generator to ensure that the generator is in proper working condition at all times. The service agreement shall provide that the approved generator shall be inspected

and maintained on a regular basis based on industrial standards and manufacturer's specifications but not less than once every six months after installation. SBA shall provide the ZBA and Planning Board written documentation of the service agreement and each inspection and service of the generator. SBA shall obtain a building permit from the Town prior to the installation of the approved generator on the Property. Written confirmation of the installation of the generator in accordance with the approved building permit shall be provided to the ZBA and Planning Board. Until the permanent generator is installed on the Property, SBA shall provide a mobile emergency back-up generator to power the Facility within 24 hours in the event of electrical failure.

3. Within six months of the effective date of this resolution, SBA shall undertake an analysis of line-of-sight for the Property's access drive on NYS Route 44 and, in consultation with the Town's engineer, undertake and/or, if necessary, seek permission from NYSDOT and then undertake any vegetative clearing required to improve safety for travelers on NYS Route 44.

WHEREAS, by letter dated May 19, 2022, SBA's counsel submitted a request for a 6-month extension to December 8, 2022 to satisfy these above conditions; and

WHEREAS, with respect to Condition #1 above pertaining to landscaping to screen the Facility, on June 3, 2022 the Planning Board's engineer conducted a site visit to the Property and determined that, due to the growth of existing vegetation providing screening of the Facility, implementation of the previously-approved landscaping plan would not be effective and the planted vegetation would not survive because of shade cast by the existing vegetation; and

WHEREAS, Condition #2 above requires SBA to take measures to ensure that there is no lapse in operation of the Facility due to electrical failure, including installation of and maintenance of an emergency back-up generator to power the facility. SBA reports that it is negotiating with the carrier on the Facility, T-Mobile Sprint, to have them install and maintain the generator required for the Renewal; and

WHEREAS, SBA has submitted a line-of-sight analysis to the Planning Board and ZBA as required by Condition #3 above; for review by the Town Engineer and NYSDOT. SBA has initiated communications with NYSDOT regarding the same; and

WHEREAS, the ZBA determines that approval of the requested extension will not result in any material changes to the Facility; will be consistent with the Planning Board's 2011 SEQRA determination; and no further environmental review is required and an environmental impact statement will not be prepared; and

WHEREAS, at its June 22, 2022 meeting, the Planning Board adopted a resolution granting and modifying SBA's extension request with respect to site plan approval granted by the Planning Board for the Facility consistent with the terms and conditions of this resolution.

NOW THEREFORE BE IT RESOLVED, that the ZBA hereby waives and removes Condition #1 above from the Renewal because existing natural vegetation provides a sufficient

visual screen for the Facility and additional supplemental landscape screening is no longer necessary, provided, however, SBA is required to maintain the natural vegetation so that it does not interfere with the safe operation and access to the Facility; and

BE IT FURTHER RESOLVED, that the ZBA hereby grants SBA the requested 6-month extension to satisfy Conditions #2 and #3 of the Renewal, with the following amendment to Condition #2:

Condition #2 – Within 90 days of the effective date of this resolution, SBA shall submit a report to the ZBA on its compliance with this condition to ensure the installation of an emergency back-up generator to serve the Facility and to otherwise comply with the terms of this condition by no later than December 8, 2022; and

BE IT FURTHER RESOLVED, that except as modified by this resolution, the terms and conditions of the Renewal and the Prior Approvals shall remain in full force and effect; and

BE IT FURTHER RESOLVED, that a copy of this resolution shall be filed immediately in the Town Clerk's Office, and shall be mailed to the Applicant; and

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately.

Motion by: *Paula Pelosi*

Second by: *Tracy Salladay*

The foregoing resolution was voted upon with all members of the Zoning Board of Appeals voting as follows:

	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Terry Metcalfe, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Menegat	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Paula Pelosi	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tracy Salladay	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
James Wright	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Dated: July __, 2022
Amenia, New York

Judy Westfall

Judy Westfall, ZBA Clerk