

WAIVER REQUEST
RE: Application of Mariner Tower
15 Strafford Road, Strafford NH

NOW COMES the Applicant Navigator Properties, LLC d/b/a Mariner Tower and requests a waiver from Chapter 3.2.2 (K) of the non-residential site plan regulations, as follows:

1. Chapter 3.2.2 (K) is entitled “Steep Slopes” and contains certain requirements regarding driveways. Specifically Subsection 5 states as follows: “Driveways shall be limited to a slope of 8% or less if unpaved and no more than 12% slope if paved.” (“the Steep Slope Requirement”.)

2. Section 3.2.2 (L) allows an applicant to seek a waiver from the Planning Board. That section provides that the Board may grant a waiver if it finds that:

A. Strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit intent of the regulations, or,

B. Specific circumstances relative to the project, or conditions of the land, indicate that the waiver will properly carry out the spirit and intent of the regulations.

3. In this case, Mariner Tower is seeking approval for a cell tower site at 15 Strafford Road (“the Property”). The Property is located within the Town’s wireless telecommunications facility overlay district and is otherwise fully compliant with the requirements of the Town Ordinance and site plan review regulations for such a facility.

4. Mariner Tower’s engineer has measured the slopes of the proposed driveway, and has calculated an average grade slope of 7.7%, as follows:

Regarding driveway grade slope, the driveway has varied slopes, ranging from minimum slope of 3% to a maximum slope of 10%.

Top of the driveway elevation is 637.5’, the bottom of the driveway elevation is 580.01’, the elevation difference is 57.49’, length of the driveway is 744’ resulting in a slope of 7.7% slope ($57.49 / 744 \times 100 = 7.7\%$).

The plan references the average grade slope.

5. Because the average grade slope of the driveway is 8% or less, Mariner Tower believes that the proposed driveway conforms with the Steep Slope Requirement.

6. In the event that the Planning Board does not agree with Mariner Tower and/or does not accept the calculations by Mariner Tower's engineer, then Mariner Tower respectfully requests a waiver from the Steep Slope Requirement.

7. As measured by Mariner Tower's engineer, the maximum slope of any part of the proposed driveway is 10%. Such a figure is only slightly above the Steep Slope Requirement for unpaid driveways and in fact, less than the maximum permitted slope of a paved driveway.

8. The Property itself is one of the very few properties located in the permitted overlay zone. There are very few alternatives for the East Overlay zone and, to a certain extent, the Property was chosen by the Town when it established the East Overlay District. The Property includes the steep slope and, if relief is not granted, then the Property, in effect, may not be useable for purposes of the overlay zone.

9. Mariner Tower has acted in good faith here and has gone to great lengths and great expense to address drainage and slope issues.

10. Subsection 5 allows a slope of "no more than 12%" if the driveway is paved. It is economically wasteful for Mariner Tower to have to pave a portion or all of the driveway. The driveway will have limited vehicular traffic and will not be used by the general public. Paving would be expensive, would not materially increase the safety or suitability of the driveway for its intended purpose and in the event the driveway is paved, potentially more water will be shed from the driveway during storm events.

11. Strict conformity with the Steep Slope Requirement would therefore pose an unnecessary hardship to Mariner Tower and the waiver would not be contrary to the spirit intent of the regulations. Further, allowing this waiver would not be contrary to the spirit and intent of

the regulations, and to the contrary, would allow the Property to be used as a cell tower site, as intended by the overly district.

12. For all the foregoing reasons, the Planning Board should grant a waiver regarding the driveway as set forth above.

Respectfully submitted,

Navigator Properties, LLC d/b/a Mariner Tower
By Its Attorney,
Springer Law Office, PLLC

Dated: October 20, 2023

By: _____

Jonathan S. Springer, Esq.
118 Maplewood Avenue, Suite C-3
Portsmouth, NH 03801
Tel (603) 312-8741
Email: jspringer@jspringerlaw.com