



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2013-27-R1-8/2014
Site: 51 McGrath Highway
Date of Decision: October 15, 2014
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: October 24, 2014

ZBA DECISION

Applicant Name:	Bell Atlantic Mobile of Massachusetts Corp. Ltd. d/b/a Verizon Wireless
Applicant Address:	400 Friberg Parkway, Westborough, MA 01581
Property Owner Name:	Sovran Acquisition Limited Partnership
Property Owner Address:	6467 Main Street, Buffalo, NY 14221
Agent Name:	Daniel D. Klasnick, Esq.
Agent Address:	16 Olde Farms Road, Boxford, MA 01921

<u>Legal Notice:</u>	Applicant, Bell Atlantic Mobile of Massachusetts Corporation, Ltd, d/b/a Verizon Wireless, and Owner, Somerville Storage Partners, LLC, seek a Revision to a Special Permit ZBA 2013-27 under SZO §5.3.8 to add equipment to an existing wireless communication facility. IA zone. Ward 2.
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<u>Zoning District/Ward:</u>	IA zone/Ward 2
<u>Zoning Approval Sought:</u>	§5.3.8
<u>Date of Application:</u>	August 14, 2014
<u>Date(s) of Public Hearing:</u>	10/1 & 10/15/14
<u>Date of Decision:</u>	October 15, 2014
<u>Vote:</u>	5-0

Appeal #ZBA 2013-27-R1-8/2014 was opened before the Zoning Board of Appeals at Somerville City Hall on October 1, 2014. Notice of the Public Hearing was given to persons affected and was published and posted, all as



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required by M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. After one hearing of deliberation, the Zoning Board of Appeals took a vote.

DESCRIPTION:

The proposal is to add a microwave dish antenna to the existing wireless facility. This application is to complete network connectivity. The installation at 51 McGrath Highway is practically complete. The original intent of the installation was to connect via telecommunications service, underneath the building. This has proven to be not possible. To get the site operational, a microwave dish antenna is required at both 51 McGrath Highway and 10 Webster Avenue (ZBA Case #2014-98).

FINDINGS FOR REVISION TO SPECIAL PERMIT (SZO §5.3.8, §7.11.15.3, & §14):

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §5.1.4 of the SZO. This section of the report goes through §5.1.4 in detail.

1. Information Supplied:

The Board finds that the information provided by the Applicant conforms to the requirements of §5.1.2 of the SZO and allows for a comprehensive analysis of the project with respect to the required Special Permits.

2. Compliance with Standards: *The Applicant must comply "with such criteria or standards as may be set forth in this Ordinance which refer to the granting of the requested special permit."*

The Applicant seeks a revision of a special permit under §5.3.8 to add equipment per §7.11.15.3 of the SZO which requires the applicant to follow guidelines and procedures set forth in Article 14 for the, "regulation of wireless telecommunications facilities so as to allow and encourage such uses in the City with minimal harm to the public health, safety, and general welfare."

The Board finds that minimal harm would be imposed upon the health, safety and welfare of the surrounding neighborhood. Verizon Wireless is a FCC licensed company that is required to comply with all state and federal regulations.

Review Criteria for Telecommunications Facilities:

- a) *Height of proposed facility:* The base of the building to the top roof beam is approximately 40' feet and the height to the top of the proposed antennas is approx. 50' feet or 10' above the roofline. This building is one of the tallest in the surrounding area and can connect with the facility at 10 Webster Avenue.
- b) *Proximity of facility to residential structures and residential zoning districts:* The building at 51 McGrath is a self storage building in an Industrial-A district. The only residential property near the site is the Brickbottom Artist Lofts. At the closest point, they are 220 feet away. There is no direct connection between the two sites because of the train tracks. The Brickbottom Artist Lofts are in an Industrial zone. The nearest residential district is the RB zone on the other side of Twin City Plaza.
- c) *Nature of uses on adjacent and nearby properties:* The site is located in an IA district and surrounded by other business uses with the exception of Brickbottom Artists Lofts. Twin City Plaza, Cambridge Reprographics, and the adjacent data center should not be disrupted.
- d) *Surrounding topography and prominence of proposed facility:* There is little topography change around the site. The property is seen primarily from the elevated portion of McGrath Highway. The



existing storage facility with added wireless capability is appropriate for the industrial area. The exposed antennas will match the existing penthouse.

- e) *Surrounding tree cover and foliage:* Tree cover would not be an effective method for shielding this wireless facility; however, there is also no anticipated interference with regard to foliage.
- f) *Design of tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness, as specified in Section 14.3:* The dish will be mounted not more than 10' above the existing penthouse and painted to match. Ideally, the original proposal at 51 McGrath Highway would be independent and the dishes at 51 McGrath and 10 Webster Avenue would not be necessary. Planning Staff have reviewed all options with the Applicant to get 51 McGrath Highway operational and this is the least intrusive response. Planning Staff prefers the original proposal to ground the station at 51 McGrath but understands that this is not possible due to existing infrastructure and property ownership fronting the existing building.
- g) *Location of tower, with particular reference to the existence of more suitable locations, as specified in Section 14.3:* The application is in compliance with this review criterion. The Applicant is proposing to locate the dish on an existing wireless telecommunications facility.
- h) *Proposed ingress and egress:* Ingress and egress to the site will continue to be through the existing curb cut on McGrath Highway before the ramp up to the elevated portion. The rooftop is accessible from the penthouse.
- i) *Distance from existing facilities:* Verizon Wireless operates at several other facilities in Somerville. The added equipment on an existing facility is better than installing another new base station. However, now knowing that complications with the site, a different base station in the vicinity was probably more ideal.
- j) *Availability of suitable existing towers, poles, other structures, or alternative technologies, as discussed in Section 14.5.2: Section 14.5.2 states that no new sites for telecommunications facilities shall be permitted unless the Applicant demonstrates that existing sites cannot meet the Applicant's need:* The site where the Applicant is proposing to install a microwave dish is currently an approved wireless telecommunications facility.

3. Consistency with Purposes: *The Applicant has to ensure that the project "is consistent with (1) the general purposes of this Ordinance as set forth in Article I, and (2) the purposes, provisions, and specific objectives applicable to the requested special permit which may be set forth elsewhere in this Ordinance, such as, but not limited to, those purposes at the beginning of the various Articles."*

The Board finds that the proposal, as conditioned, is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to promoting "the health, safety, and welfare of the inhabitants of the City of Somerville; to secure safety from fire, panic and other dangers to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality."

The proposal is consistent with the purpose of the district, which is, "To establish and preserve areas for industrial and related uses which are not incompatible with commercial uses; uses which are most appropriately located as neighbors of industrial uses including living and studio space for artists; and uses which are necessary to service the immediate needs of industrial establishments in those areas, and accessory uses to industrial uses such as day care centers, cafeterias, health facilities, and the like."

Furthermore, the Board finds that the proposal, is consistent with the purposes set forth in Article 14 of the Zoning Ordinance as conditioned in this report, to:



- a) *Protect residential areas and land uses from potential adverse impacts of towers and antennas;*
 - b) *Encourage the location of telecommunications facilities in non-residential areas;*
 - c) *Minimize the total number of towers and antennas throughout the community;*
 - d) *Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;*
 - e) *Encourage users of towers and antennas to locate them in areas where the adverse impact on the community is minimal;*
 - f) *Encourage users of towers and antennas to configure them in ways that minimize the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;*
 - g) *Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;*
 - h) *Consider the public health and safety of communications facilities; and*
 - i) *Avoid potential damage to adjacent properties from tower and antenna failure through sound engineering and careful siting of structures.*
4. Site and Area Compatibility: *The Applicant has to ensure that the project "(i)s designed in a manner that is compatible with the characteristics of the built and unbuilt surrounding area, including land uses."*

The surrounding neighborhood is small since it is isolated by McGrath Highway and the railroad tracks. The other buildings are industrial looking and have a variety of uses including a datacenter, reprographics, liquor store, and car wash. The building faces Twin City Plaza but would only be accessible from the crosswalk at Rufo Road (the main entrance to Twin City Plaza).

The Board finds the proposed dish and installation to be compatible with the surrounding area and the appearance of other antennas on the roof. The dish, as conditioned, will be painted to match the penthouse. Staff finds this an exceptional condition, to connect and ground a previously approved wireless station. Microwave dishes are not a preferred method of installation but are the only way to make the installation at 51 McGrath Highway operational.

5. Adverse environmental impacts: *The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.*

The proposed installation will not generate any glare, light, smoke, dust, or vibrations nor will it emit any noxious or hazardous materials or substances. Noise from the equipment will be minimal and should not be heard beyond the confines of the property where it will be placed. The proposed installation will be located on an existing building and therefore no pollution of waterways or ground water will occur. Additionally, the proposed installation will not be tied into any public sewer or private wastewater disposal system. In connection with its FCC license, Verizon Wireless is prohibited from interfering with radio or television transmissions.

6. Housing Impact: *Will not create adverse impacts on the stock of existing affordable housing.*

There will be no changes to existing affordable housing.



7. SomerVision Plan: *Complies with the applicable goals, policies and actions of the SomerVision plan, including the following, as appropriate: Preserve and enhance the character of Somerville's neighborhoods, transform key opportunity areas, preserve and expand an integrated, balanced mix of safe, affordable and environmentally sound rental and homeownership units for households of all sizes and types from diverse social and economic groups; and, make Somerville a regional employment center with a mix of diverse and high-quality jobs. The areas in the SomerVision map that are designated as enhance and transform should most significantly contribute towards the SomerVision goals that are outlined in the table below. The areas marked as conserve are not expected to greatly increase the figures in the table since these areas are not intended for large scale change.*

This project does not contribute to the goals and policies of SomerVision, however, wireless communication is a 'need' of many at this point in time.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Elaine Severino with Brandy Brooks absent. Upon making the above findings, Susan Fontano made a motion to approve the request for a Special Permit. Richard Rossetti seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is for the installation of a microwave dish on an existing wireless communications facility under SZO §5.3.8, §7.11.15.3, and §14. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP	Plng.									
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>August 14, 2014</td><td>Initial application, submitted to the City Clerk's Office</td></tr><tr><td>(October 7, 2014)</td><td>Photo simulations submitted with application</td></tr><tr><td>August 22, 2014</td><td>Plans (Title Page, Abutters Plan, Proposed Roof Plan, Proposed West & Partial East Elev, South Elev, Construction Details)</td></tr></table>				Date (Stamp Date)	Submission	August 14, 2014	Initial application, submitted to the City Clerk's Office	(October 7, 2014)	Photo simulations submitted with application	August 22, 2014	Plans (Title Page, Abutters Plan, Proposed Roof Plan, Proposed West & Partial East Elev, South Elev, Construction Details)
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Any changes to the approved site plan, photograph simulations, and/or elevations that are not <i>de minimis</i> must receive SPGA approval.												
2	The dish shall be painted to match the penthouse.	CO	Plng.									
3	<i>Compliance with Noise Control Ordinance.</i> Prior to the issuance of a Certificate of Use and Occupancy Permit for the installation of the wireless telecommunications facility, the Applicant shall submit to the Inspectional Services Department, with a copy to the Zoning Board of Appeals, a sound level measurement certified as accurate by a professional acoustician and shall perform such sound level measurements six months after issuance of the certificate of occupancy, with subsequent sound level measurements annually on or before the anniversary date of the	Continued	ISD									



	original six month measurement to document that all of the Applicant's installed equipment complies and continues to comply with the decibel level standards established by the City of Somerville, Noise Control Ordinance.			
4	<i>Compliance with Federal Communications Commission Guidelines for Human Exposure to Electromagnetic Fields.</i> To ensure compliance with the standards established by the Federal Communications Commission Office of Engineering and Technology ("FCC") in OET Bulletin 65 as adopted by Massachusetts Department of Public Health under 105 CMR 122.021, the Applicant shall perform measurements, within two (2) months of the date that the Applicant's wireless telecommunications facility commences operation and at intervals of twelve (12) months thereafter, to establish that the Applicant's wireless telecommunications facility complies and continues to comply with the FCC guidelines and applicable state regulations for human exposure to radio frequency electromagnetic fields for human exposure to radio frequency electromagnetic fields. The Applicant shall provide the results of such measurements with certification of compliance to the City of Somerville, Health Department, with a copy to the Zoning Board of Appeals.	Continued	BOH	
5	Any antenna that is not operated continuously for a period of twelve (12) months shall be considered abandoned, and the owner of such antenna shall remove the same within ninety (90) days of notice from the City of Somerville informing the owner of such abandonment.	Continued	ISD	
6	The applicant shall remove any of that carrier's unused or non-operating wireless equipment prior to installation.	BP	Plng.	
7	The Applicant shall at his expense replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard.	Final inspection	DPW	
8	All construction materials and equipment must be stored onsite. If occupancy of the street layout is required, such occupancy must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Department must be obtained.	During Construction	T&P	
9	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final inspection by Inspectional Services to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Final sign off	Plng.	

Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Richard Rossetti
Danielle Evans
Elaine Severino

Attest, by the Administrative Assistant:

Dawn M. Pereira

Copies of this decision are filed in the Somerville City Clerk's office. Copies of all plans referred to in this decision and a detailed record of the SPGA proceedings are filed in the Somerville Planning Dept.
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CLERK'S CERTIFICATE

Any appeal of this decision must be filed within twenty days after the date this notice is filed in the Office of the City Clerk, and must be filed in accordance with M.G.L. c. 40A, sec. 17 and SZO sec. 3.2.10.

In accordance with M.G.L. c. 40 A, sec. 11, no variance shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

Also in accordance with M.G.L. c. 40 A, sec. 11, a special permit shall not take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and either that no appeal has been filed or the appeal has been filed within such time, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services shall be required in order to proceed with any project favorably decided upon by this decision, and upon request, the Applicant shall present evidence to the Building Official that this decision is properly recorded.

This is a true and correct copy of the decision filed on _____ in the Office of the City Clerk, and twenty days have elapsed, and

FOR VARIANCE(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ any appeals that were filed have been finally dismissed or denied.

FOR SPECIAL PERMIT(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ there has been an appeal filed.

Signed _____ City Clerk Date _____

