



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
JOSEPH A. CURTATONE
MAYOR

MICHAEL F. GLAVIN
EXECUTIVE DIRECTOR

PLANNING DIVISION

ZONING BOARD OF APPEALS MEMBERS

ORSOLA SUSAN FONTANO, CHAIRMAN
RICHARD ROSSETTI, CLERK
DANIELLE EVANS
ELAINE SEVERINO
JOSH SAFDIE
ANNE BROCKELMAN, (ALT.)

Case #: ZBA 2015-101
Site: 252 Medford Street
Date of Decision: December 9, 2015
Decision: Petition Approved with Conditions
Date Filed with City Clerk: December 17, 2015

ZBA DECISION

Applicant Name:	New Cingular Wireless PCS, LLC
Applicant Address:	550 Cochituate Road, Suite 13&14, Framingham, MA 01701
Property Owner Name:	Somerville Housing Authority
Property Owner Address:	30 Memorial Road, Somerville, MA 02145
Agent Name:	Timothy Greene, TerraSearch
Agent Address:	157 Riverside Drive, Norwell, MA 02061
<u>Legal Notice:</u>	Applicant, New Cingular Wireless PCS, LLC d/b/a AT&T Mobility, and Owner, Somerville Housing Authority, seek a special permit to upgrade an existing wireless facility by replacing three existing antennas.
<u>Zoning District/Ward:</u>	BB zone/Ward 3
<u>Date of Application:</u>	November 4, 2015
<u>Date(s) of Public Hearing:</u>	December 9, 2015
<u>Date of Decision:</u>	December 9, 2015
<u>Vote:</u>	4-0

Appeal #ZBA 2015-101 was opened before the Zoning Board of Appeals at Visiting Nurse Association on December 9, 2015. Notice of the Public Hearing was given to persons affected and was published and posted, all as 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.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722
www.somervillema.gov

DESCRIPTION:

The proposal is to replace 3 existing antennas on the building with like sized antennas as well as adding cabling and accessory equipment for the operation of the new antennas.

FINDINGS FOR SPECIAL PERMIT:

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 Special Permit under §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 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. AT&T is a licensed company that is required to comply with all state and federal regulations.

Review Criteria for Telecommunications Facilities SZO §14.5.1:

- a. *Height of proposed facility:* The building is a nine story, 90 foot tall, brick structure with three penthouses that extend above the roof. All of the replacement antennas will be located on existing mounts which are located below the roofline of the penthouse or building façade to which they are mounted. To minimize visibility, all antennas will be painted to match the corresponding building or penthouse façade.
- b. *Proximity of facility to residential structures and residential zoning districts:* Brady Towers, 252 Medford Street, is an 84-unit residential building in a BB district. While other residential buildings do surround the subject parcel, replacing the existing equipment with upgraded technology will have less of an impact than installing equipment on a different structure.
- c. *Nature of uses on adjacent and nearby properties:* The site is located in a BB district where the surrounding properties are predominantly residential in nature. In upgrading the equipment, there will be a very minimal adverse effect on the residential nature of the surrounding area.
- d. *Surrounding topography and prominence of proposed facility:* Brady Towers is located on the east side of Prospect Hill and due to the height of the building it is a prominent structure in that area. However, as the antennas are less than five feet in height and their coloring will reflect the façade to which each is mounted, the visibility of the antennas will not increase. Additionally, the height of the building will minimize the visual impact of the antennas to lower structures and people at street level.

- e. *Surrounding tree cover and foliage:* Brady Towers is nine stories tall and rises above all trees in the surrounding area. 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 proposal is designed to be compatible with the surrounding area. Though the proposed rooftop antennas are visible from several vantage points, the proposal includes painting each antenna to match the brick color of the building, which will reduce their prominence from the public way.
- g. *Location of tower, considering more suitable locations:* The Applicant has an existing wireless facility at this location and Brady Towers is taller than any of the surrounding buildings in this immediate area.
- h. *Proposed ingress and egress:* Ingress and egress to the site will continue to be through the existing curb cut located along Medford Street and the rooftop is accessible from a penthouse.
- i. *Distance from existing facilities:* There are no AT&T wireless facilities in the immediate area.
- j. *Availability of suitable existing towers, poles, other structures, or alternative technologies, as discussed in Section 14.5.2:* AT&T currently has equipment on this building.

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 1, 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 proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to "providing for and maintaining the uniquely integrated structure of uses in the City; 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, as conditioned, is also consistent with the purposes established for the Commercial Residential district, SZO § 6.1.7 BB, which is "[t]o establish and preserve general commercial and high density residential areas consisting of multi-family developments, shopping centers, commercial strips and automobile related establishments where customers reach individual businesses primarily by automobile."

Furthermore, the Board finds the proposal to be consistent with the purposes set forth in Article 14, as noted below.

- 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;*
- 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 proposal would not be more detrimental to the area than the existing structure.

The project is determined by the Board to be compatible with the surrounding area and land uses. The proposed replacement antennas are in keeping with the current built environment as five antennas are not proposed to move, while one proposed relocated antenna will move to the south end of the western façade, near four other wireless antennas. There are no buildings taller than Brady Towers in the immediate area to be impacted by the proposed antennas. The antennas and mounting components will be conditioned to match the façade of the building to reduce visibility. While another equipment cabinet will be installed near the center of the roof top, there will be no visible impact from the ground below. Additional antennas, which belong to other wireless companies, are also located on this rooftop; however, the replacement antennas, in an effort to upgrade and reduce the carbon footprint, will have a minimal visual impact.

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.



DECISION:

Present and sitting were Members Orsola Susan Fontano, Elaine Severino, Josh Safdie with Richard Rossetti and Danielle Evans absent. Upon making the above findings, Elaine Severino made a motion to approve the request for a Special Permit. Josh Safdie seconded the motion. Wherefore the Zoning Board of Appeals voted **4-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is for a Special Permit for the installation of wireless communications equipment consisting of the replacement of three existing antennas well as related equipment and cables. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/PIng.							
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>(November 4, 2015)</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>(November 4, 2015)</td><td>Plans submitted to OSPCD (1-7)</td></tr></table>				Date (Stamp Date)	Submission	(November 4, 2015)	Initial application submitted to the City Clerk’s Office	(November 4, 2015)	Plans submitted to OSPCD (1-7)
	Date (Stamp Date)				Submission					
	(November 4, 2015)				Initial application submitted to the City Clerk’s Office					
(November 4, 2015)	Plans submitted to OSPCD (1-7)									
Any changes to the approved plans, photo simulations, and/or elevations that are not <i>de minimis</i> must receive SPGA approval.										
2	The Applicant or Owner shall meet the Fire Prevention Bureau’s requirements.	CO	FP							
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 Division, 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 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. The Applicant shall provide the results of such measurements and certify that the facility complies with the decibel level standards established by the City of Somerville, Noise Control Ordinance, with a copy to the Zoning Board of Appeals.	Continuous	ISD							

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.	Continuous	Health Dept.	
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.	Continuous	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/her 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 camouflage the antennas, RRHs, equipment cabinets, mounting hardware, and other related equipment and fixtures by painting these items to match color of the façade to which they are affixed.	Final Sign Off	Plng.	
10	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:

Orsola Susan Fontano, *Chairman*
Elaine Severino
Josh Safdie
Anne Brockelman (Alt.)

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.
--

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 _____

