



CITY OF SOMERVILLE, MASSACHUSETTS
OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2010-26

Site: 425 Broadway

Date: September 2, 2010

Recommendation: Conditional Approval

PLANNING STAFF REPORT

Site: 425 Broadway

Applicant Name: Clearwire

Applicant Address: 5808 Lake Washington Blvd., Kirkland, WA 98033

Property Owner Name: The Summit LLC

Property Owner Address: PO Box 296, Somerville, MA 02145

Agent Name: Chris Swiniarski

Alderman: O'Donovan

Legal Notice: Applicant, Clearwire and Owner, Powder House Realty, seeks a Special Permit under SZO §7.11.15.3 in order to install wireless communications equipment.

Zoning District/Ward: Residence C / 5

Zoning Approval Sought: Special Permit under SZO §7.11.15.3

Date of Application: May 6, 2010

Date(s) of Public Meeting/Hearing: PB 9/1/10 - ZBA 9/15/10

I. PROJECT DESCRIPTION

1. Subject Property: The 425 Broadway property is an approximately 11,857 sf lot. On the property is a 7 story brick apartment building, which is approximately 87 ft in height to the rooftop. A number of telecommunications carriers have antennas and associated equipment on the roof, including some rather large equipment that has been in place on the roof since the late 1980's.

Planning Staff understands that there has been significant concerns about the existing antenna installations at this property. The staff undertook a significant review of the permit history here and was able to conclude that permits were granted as follows:

- June 1989: Special Permit for NYNEX Mobile Communications for renovation of an equipment room in this building and for installation of a fifteen foot high antenna on the roof. This is one of



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the tallest structures on the roof today, and it is actually mounted above the penthouse, not above the taller roofline, as it appears to have been advertised. This results in a structure that 4 feet higher than advertised. While advertised as a single antenna, this installation is an antenna array. It should be noted that this application was completed prior to the current Telecommunications Ordinance, and therefore had much simpler submittal requirements. This equipment is now operated by Verizon wireless.

- December 1994: Special permit to install twelve 10 foot by 4 foot rectangular panel antennas, not to exceed the height of the 1989 NYNEX antenna.
- March 1995: Revision to cable enclosures
- October 1996: Installation of three 8 foot high antenna arrays on the roof. Noted that these would be seven feet lower than the existing NYNEX panel.
- January 1997: Revision to 1996 approval to relocate two panel systems
- A late 1997 application was not accepted because of an ongoing moratorium on antennas, and a proposed 2004 amendment was denied because the project changes were not considered minor.

After this extensive review, Staff concluded that most of the equipment on the roof can be tied to specific Special Permits granted by the ZBA. Nonetheless, it appears that there is one large dish antenna on the roof that is not tied to one of these permits. It is possible that the owner of this antenna believes that the 1989 Special Permit granted permission to install the dish, but that remains unclear. After consulting with two professionals who permit cellular installations, staff was able to conclude that the dish is connected to Verizon's current installation. Based upon this history, it appears that all equipment installed by Sprint and AT&T remains on the roof as advertised.

Professionals consulted by staff also indicated that Verizon may not be using the large dish on the roof. Clearwire indicated that they would offer to have their construction crew remove unused equipment from other carriers if given permission to do so. Based on this information, staff is reaching out to Verizon to address the status of their permits, use of the equipment on the roof, and seek further information. If permission is granted, Clearwire will remove unused Verizon equipment.

2. Proposal: The applicant is proposing to install wireless communications equipment, including three dish antennae to the existing arrays. They will be connected to appurtenant radio equipment located inside the building with coaxial cables that will run adjacent to existing cables. The proposed installation is lower than the highest installation on the existing roof and is not a significant addition to the existing rooftop equipment.

3. Nature of Application: Under SZO §7.11.15.3 establishment of a wireless communications facility requires a Special Permit approval.

4. Surrounding Neighborhood: The surrounding neighborhood is a mix of residential and commercial uses, though primarily residential.

5. Green Building Practices: None indicated.

6. Comments:

Fire Prevention: Has not provided comments at this time.



Alderman: Alderman O'Donovan has been contacted, but has not provided comments at this time.

II. FINDINGS FOR SPECIAL PERMIT (SZO§7.11.15.3):

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 Staff 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 such uses in the City with minimal harm to the public health, safety, and general welfare."

Guidelines in Article 14 of the SZO state that antennas should not be located more than 10ft above the roofline, should be located at a minimum of 10ft from the roof edge and below a forty-five degree plane beginning at the cornice of the building. The proposed new antennae are all below a forty-five degree plane beginning at the cornice, and are all located more than 10 ft from the roof edge. The Clearwire installation at its top height is 11.5 feet above the higher roof line on which the equipment is mounted. There is other equipment on the roof that is mounted much higher than this, so the new installation is no higher than any existing installation on the roof. The applicant is also removing an abandoned TV antenna on the roof. All other equipment on the roof appears to be in working order and is operated by other carriers.

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 Staff finds that the proposal, as conditioned, **is consistent** with the purposes set forth in Article 1 of the Zoning Ordinance; and, with those purposes established for the Residence C (RC) district in which the property is located, namely, "To establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the district." Staff finds the addition of the antennas and associated equipment, as conditioned, will neither negatively affect the local commercial uses, nor the multi-family character of the residences in the area.

The Staff finds that the proposal as conditioned **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."

Staff finds the project to be compatible with the surrounding area and land uses. The antennas proposed would be co-located within other equipment on this roof. The applicant and OSPCD staff reviewed options for equipment screening and shielding and found that there is no adequate method for shielding the existing antennae on the rooftop. The equipment is generally not visible from the ground in the immediate vicinity, but due to the tall building and prominent site, the equipment is very visible from a number of other places in the community. Nonetheless, this additional installation is smaller than the current installations on the roof. The applicant has offered to remove the large dish on the roof should Verizon indicate that they are no longer using it.

5. Review Criteria for Telecommunications Facilities: In addition to those standards outlined in Section 5.1 for the granting of special permits, the SPGA shall consider the following factors in determining whether to issue a special permit for a telecommunications facility:

- a) *Height of proposed facility:* The existing building has an approximately 70 ft high lower roof and a 77 foot high upper roof, with an 87 foot high penthouse. Equipment is mounted on the top of the 77 foot roof and the side of the penthouse, with a height exceeding the penthouse. The maximum height of new equipment would be 86.5 feet, and this would be lower than existing equipment. The height of the proposed facility meets all SZO guidelines.
- b) *Proximity of facility to residential structures and residential zoning districts:* The building at 425 Broadway is a residential structure in Residence C district. Other residential structures directly abut this property. Staff finds that several companies currently have wireless communications equipment on this structure, as well as the nearby 391 Broadway. Additional equipment would have limited impact on the surrounding residential structures. This project would have much greater impact if installed at a location without existing equipment. The applicant has indicated that, without this



installation, it would be necessary to install equipment on 4 to 6 additional rooftops or towers to provide full service in and around Winter Hill. Therefore, this installation has far less impact than alternative strategies.

- c) *Nature of uses on adjacent and nearby properties:* Surrounding properties are mixed use in nature and, Staff finds, compatible with the proposed use.
- d) *Surrounding topography and prominence of proposed facility:* The surrounding area is hilly, and this is the tallest building on a high point in the City. This is why it is appealing to cellular companies. The proposed rooftop antennas are visible from several vantage points, but no more so than the existing array already on the building.
- e) *Surrounding tree cover and foliage:* The surrounding area features several street trees that are significantly lower in height than the proposed antennas and will be unaffected by this proposal.
- 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:* Not applicable.
- g) *Location of tower, with particular reference to the existence of more suitable locations, as specified in Section 14.3:* Not applicable.
- h) *Proposed ingress and egress:* Ingress and egress to the site will be at the front entrance, there is one existing curbcut to access the parking area.
- i) *Distance from existing facilities:* There are three other existing Clearwire antennas currently established in Somerville, one at 94 Beacon Street, one at 23 Cummings Street near McGrath Highway and one at 119 College Avenue near Davis Square. This site is a significant distance away from the existing facilities. Installing equipment at this location will ensure that the applicant does not need 4 to 6 additional installations to provide service around Winter Hill.
- j) *Availability of suitable existing towers, poles, other structures, or alternative technologies, as discussed in Section 14.5.2:* This site provides the optimal location for Clearwire technologies

III. RECOMMENDATION

Special Permit under SZO §7.11.15.3

Based on the above findings, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **SPECIAL PERMIT**.

Staff finds that this application complies with the requirements for granting a special permit as set forth under §5.1.4 and Article 14.

Although the Planning Staff is recommending approval of the requested Special Permit, the following conditions should be added to the permits:



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| # | Condition | Timeframe for Compliance | Verified (initial) | Notes | | | | | | |
|--------------------|--|--------------------------|--------------------|----------|--|-----------|--|-----------------|-------|--|
| 1 | <p>Approval is for the establishment of five (5) wireless antennas and one (1) GPS antenna with associated cabling and equipment. This approval is based upon the following application materials and the plans submitted by the Applicant and/or contractor:</p> <table><tr><th>Date (OSPCD Stamp)</th><th>Submission</th></tr><tr><td>5/6/2010</td><td>Initial application, submitted to the City Clerk’s Office.</td></tr><tr><td>(7/29/10)</td><td>Plans, elevations and photograph renditions submitted to OSPCD. (A1, A2, A3, S1, E1, T1, G1)</td></tr></table> <p>Any changes to the approved site plan, photograph renditions and/or elevations that are not <i>de minimis</i> must receive ZBA approval.</p> | Date (OSPCD Stamp) | Submission | 5/6/2010 | Initial application, submitted to the City Clerk’s Office. | (7/29/10) | Plans, elevations and photograph renditions submitted to OSPCD. (A1, A2, A3, S1, E1, T1, G1) | Building permit | PLNG. | |
| Date (OSPCD Stamp) | Submission | | | | | | | | | |
| 5/6/2010 | Initial application, submitted to the City Clerk’s Office. | | | | | | | | | |
| (7/29/10) | Plans, elevations and photograph renditions submitted to OSPCD. (A1, A2, A3, S1, E1, T1, G1) | | | | | | | | | |
| 2 | <p><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 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.</p> | Continued | ISD | | | | | | | |



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|---|---|-----------------|-------|--|
| 3 | <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 | |
| 4 | 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 | |
| 5 | The applicant shall remove any of that carrier's unused or non-operating wireless equipment prior to installation. | Building permit | PLNG. | |
| 6 | The applicant shall identify and inform Planning Staff of any non-operating wireless equipment from any carrier prior to installation. The applicant shall remove the TV antenna on the roof. The applicant shall remove any other carrier's operating equipment from the roof prior to installation if that carrier agrees to allow the applicant to do so. The applicant shall cooperate with Planning Staff in addressing the use and permitting status of Verizon's installation on the roof. | Building permit | PLNG. | |
| 8 | The Applicant shall contact Planning Staff at least five working days in advance of a request for a final sign-off on the building permit to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval. | Final signoff | PLNG. | |

