



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

PLANNING DIVISION

ZONING BOARD OF APPEALS MEMBERS

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DANIELLE EVANS
ELAINE SEVERINO (ALT.)
JOSH SAFDIE (ALT.)

Case #: ZBA # 2011-08
Site: 252 Medford Street
Date of Decision: February 16, 2011
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: February 24, 2011

ZBA DECISION

Applicant Name:	New Cingular Wireless, PCS, LLC by is manager, AT&T Mobility, Inc.
Applicant Address:	550 Cochituate Road, Framingham, MA 01701
Property Owner Name:	Somerville Housing Authority
Property Owner Address:	30 Memorial Road, Somerville, MA 02145
Agent Name:	Matt McQuaid, SAI Communications
Agent Address:	11 Taylor Road, North Reading, MA 01864
<u>Legal Notice:</u>	Applicant New Cingular Wireless, PCS, LLC by its manager, AT&T Mobility, Inc and Owner Somerville Housing Authority seek a special permit (SZO §7.11.15.3 and SZO §14) to install wireless communications equipment, consisting of 3 additional antennas to be added to an existing wireless facility on the roof.
<u>Zoning District/Ward:</u>	BB zone/Ward 3
<u>Zoning Approval Sought:</u>	§7.11.15.3 & §14
<u>Date of Application:</u>	December 30, 2010
<u>Date(s) of Public Hearing:</u>	February 16, 2011
<u>Date of Decision:</u>	February 16, 2011
<u>Vote:</u>	5-0

Appeal #ZBA 2011-08 was opened before the Zoning Board of Appeals at Somerville City Hall on February 16, 2011. 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.



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DESCRIPTION:

The proposal is to install three panel antennas attached to three of the existing penthouses on the roof of the building. Each antenna will be installed adjacent to existing three sectored pairs of antennas. The centerline heights will be the same as the existing antenna heights of 93', 85' and 82' and the size will be nearly the same as the existing antennas. The electronic equipment will be located inside of the existing equipment room in the basement of the building.

The purpose of the new antennas is to provide "long term evolution" (LTE) or "4G" service, which AT&T is currently not providing in the City. The LTE is a high-speed data service network that is separate from AT&T's existing voice and data networks. The radio frequency engineer report states that it is his professional opinion that AT&T would be able to fill the significant gaps in cover by installing dual band antennas at the proposed height.

FINDINGS FOR SPECIAL PERMIT (SZO §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 special permit under §7.11.15.3 of the SZO which requires the applicant to following 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 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 property is residential; however, the building height and collocation with other wireless carriers make it an appropriate site for the new antennas. Under SZO§14.3.4.c the antenna shall be setback below a plane inclined at forty-five (45) degrees from the vertical, beginning at each cornice line of the buildings. The three proposed antennas will be located on existing mounts and inline with existing panel antennas. The location of two of the proposed antennas will be setback from the roof's edge. The final antenna will be on a penthouse that is flush with the sidewall of the building. Despite not having a setback, the antenna is façade mounted and on an existing mount.
- b) *Proximity of facility to residential structures and residential zoning districts:* The building at 252 Medford Street is a residential structure in a business (BB) district. The property is directly adjacent to a Residence A (RA) zoning district to the rear and within 250 feet of a Residence B (RB) zoning district across McGrath Highway. Low density single- and two-family residential structures are located directly behind this property. The proposed antennas would only slightly change the appearance of the existing equipment.
- c) *Nature of uses on adjacent and nearby properties:* Surrounding properties are predominantly residential in nature. The structure itself where the antenna is to be located is a residential building. For the same reasons listed in section b above, the Board finds that there would not be an adverse affect on the residential nature of the surrounding area.



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- d) *Surrounding topography and prominence of proposed facility:* The Brady Towers development is located on the east side of Prospect Hill. Due to the height of the building it is a prominent structure in that area; however, the antennas will not be prominent because of their small size and conditioned screening techniques. Also, the equipment room is located in the basement and the cable trays are located in the core of the building. In addition, the building's height will minimize the visual impact of the antennas to lower structures and people at street level.
- e) *Surrounding tree cover and foliage:* Due to the height of the installation, tree cover would not be effective for shielding the facility.
- 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:* Though the proposed rooftop antennas are visible from several vantage points, the proposal to match them to the color of the building will reduce their prominence from the public way. The Applicant will use existing brackets on which to attach the new antennas so that there is not extraneous equipment on the roof. In 2008 Staff visited the site and confirmed with the site manager that there are no unused antennas on the facility. Staff have explained to the property owner that it is the building owner's responsibility to remove any abandoned facilities.
- g) *Location of tower, considering more suitable locations:* AT&T has existing equipment on 252 Medford St and continues to be a key location for the wireless carrier as shown in the data submitted. The radio frequency engineer stated in a report that this location is needed to fill coverage gaps in the LTE/4G network.
- h) *Proposed ingress and egress:* Ingress and egress to the site will be at the existing curb cut for the property. There is access to the rooftop via a penthouse.
- i) *Distance from existing facilities:* Please see the attached map of the existing facilities.
- j) *Availability of suitable existing towers, poles, other structures, or alternative technologies, as discussed in Section 14.5.2:* AT&T has equipment on this building and the three new antennas will be on exiting mounts, which would have less of an impact than locating in a different location.

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."

This proposal is consistent with the purposes of the SZO, specifically "to facilitate the adequate provision of ...other public requirements; to ...increase the amenities of the municipality" (SZO §1.2) as the antennas will improve cell phone service for its customers as well as for emergency calls. The proposal is also consistent with the specific purposes of 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*



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- 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." As conditioned, the proposal would not be more detrimental to the area than the existing structure.

The Board finds the project to be compatible with the surrounding area and land uses. The proposed antennas keep with the current built context as they are proposed to be situated on the wall of the penthouses and not alter the roofline of the building. There are no tall buildings in the immediate area that would be impacted by the proposed antennas. The rooftop antenna components will be conditioned to be painted to match the building to reduce the visibilities of the antennas. Several antennas placed by other companies exist on the rooftop; the addition of three panel antennas and associated equipment near existing wireless equipment will have limited 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.

The facility will have to comply with the applicable FCC requirements relating to radio frequency emissions and will comply with all applicable requirements of the building code. The equipment will not generate glare, light smoke, vibrations dust or noxious materials. Standard conditions direct compliance with Noise Control Ordinance and FCC Guidelines for Human Exposure to Electromagnetic Fields, and require regular reporting.

DECISION:

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



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#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is for the installation of 3 panel antennas mounted to existing penthouses and associated equipment. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	Plng.									
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>12/30/10</td><td>Initial application submitted to the City Clerk's Office</td></tr><tr><td>12/13/10</td><td>Plans submitted to OSPCD (A-1 roof & equipment, A-2-3 elevations, A-4 antenna layouts & elevations)</td></tr><tr><td>9/8/10</td><td>Photo simulations</td></tr></table>				Date (Stamp Date)	Submission	12/30/10	Initial application submitted to the City Clerk's Office	12/13/10	Plans submitted to OSPCD (A-1 roof & equipment, A-2-3 elevations, A-4 antenna layouts & elevations)	9/8/10	Photo simulations
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9/8/10	Photo simulations											
Any changes to the approved plans that are not <i>de minimis</i> must receive SPGA approval.												
2	All Cingular antennas shall be painted to match the color of the penthouse/equipment shelters to which they are attached.	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 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.	CO and annually	ISD / Plng.									



4	Compliance with Federal Communications Commission Guidelines for Human Exposure to Electromagnetic Fields. 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.	Annually	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. Failure to remove may result in a fine or penalty.	Perpetual	ISD	
6	The applicant shall remove any of that carrier's unused or non-operating wireless equipment prior to installation.	Signoff	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.	



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Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Acting Chairman*
Richard Rossetti, *Acting Clerk*
T.F. Scott Darling, III, Esq.
Danielle Evans
Elaine Severino (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 _____



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