



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

PLANNING DIVISION

PLANNING BOARD MEMBERS

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JOSEPH FAVALORO
JAMES KIRYLO
MICHAEL A. CAPUANO, ESQ.
DANA LEWINTER (ALT.)

Case #: PB# 2010-02
Site: 39R Medford Street
Date of Decision: May 6, 2010
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: May 12, 2010

PLANNING BOARD DECISION

Applicant Name:	MetroPCS Massachusetts, LLC
Applicant Address:	185 Billerica Road, Chelmsford, MA 01824
Property Owner Name:	Sure Lock Building Trust
Property Owner Address:	3 Seal Harbor Road, Winthrop, MA 02152
Agent Name:	N/A
 <u>Legal Notice:</u>	 Applicant, MetroPCS Massachusetts, LLC and Owner, Sure Lock Building Trust, seeks a Special Permit under SZO §7.11.15.1a in order to install a self-contained backup generator for a wireless communications facility. TOD 100 zone. Ward 2.
 <u>Zoning District/Ward:</u>	 TOD 100 zone/Ward 2
<u>Zoning Approval Sought:</u>	§7.11.15.1.a
<u>Date of Application:</u>	February 8, 2010
<u>Date(s) of Public Hearing:</u>	3/18, 4/1, 4/15 & 5/6/10
<u>Date of Decision:</u>	May 6, 2010
<u>Vote:</u>	5-0

Appeal #PB 2010-02 was opened before the Planning Board at Somerville City Hall on March 18, 2010. 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 hearings of deliberation, the Planning Board took a vote.



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DESCRIPTION:

The applicant, MetroPCS, is proposing to install a self-contained emergency backup generator to support its existing 1200 sf wireless communications equipment that has been installed in the interior of the existing warehouse (Special Permit issued 5/7/08, ZBA #2008-15). The applicant is proposing to construct a 150 sf concrete pad in the northeast corner of the lot adjacent to the railroad right of way. On this pad would be situated a diesel generator surrounded by a 3.3 ft wide by 8.6 ft long by 7 ft tall weather enclosure. Bollards and chain link fencing are proposed to protect the generator from vehicle damage.

FINDINGS FOR SPECIAL PERMIT (SZO §7.13.I):

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §5.1.4 and Article 14 of the SZO. This section of the report goes through these sections 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 §7.13.I 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 the proposal would not be substantially more detrimental to the area than the existing structure and minimal harm would be imposed upon the health, safety and welfare of the surrounding neighborhood. The Board finds that the proposed generator is at minimum 75 ft from any neighboring structure and that the use of the generator would be limited to emergency conditions when electricity is not being provided to the site. A condition will be placed on this approval recommendation that the applicant must receive appropriate approvals from Fire Prevention in order to proceed with installation.

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 Board finds that the proposal **is consistent** with the purposes set forth in Article 1 of the Zoning Ordinance; and is not inconsistent with those purposes established for the TOD100 zoning district in which the property is located, namely "(t)o provide for a mix of uses within buildings. This generator would support the existing wireless facility which is currently installed within the structure and will be screened according to Article 14 guidelines.

The Board 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;*



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- 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 Board finds the project to be compatible with the surrounding area and land uses. The proposed generator would support the existing wireless use and keeps with the current office, manufacturing, and warehousing uses in the area. The Board finds the nature of this equipment and its location in the rear yard away from any residences to be appropriate and would have negligible visual affect on the surrounding area. Though from a zoning viewpoint the location is appropriate, Fire Prevention could possibly have concerns about the location and will need to review and approve the plans prior to installation.

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 proposed generator is on ground level.
- b) *Proximity of facility to residential structures and residential zoning districts:* There is a Residence B zoning district and residential structures approximately 350 ft from the proposed location of the generator. The building itself is situated between the proposed generator and the residences in the Residence B district.
- c) *Nature of uses on adjacent and nearby properties:* There are limited uses directly adjacent to the site including industrial office, office, industrial warehouse and commercial retail uses.
- d) *Surrounding topography and prominence of proposed facility:* The elevation of the area is low and the surrounding area is relatively flat. The proposed equipment would be located at grade and would stand at a maximum height of 7 ft limiting the prominence and visibility of the facility.
- e) *Surrounding tree cover and foliage:* This area is largely devoid of any tree cover or natural features.
- f) *Design of tower, with particular reference to design characteristics that have the effect on 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:* It was decided in a prior approval that this site was a suitable location for the wireless equipment that has been installed within the structure. This proposed generator serves as support to that installation in the event of emergency electrical outages.
- h) *Proposed ingress and egress:* Ingress and egress to the site will be at the existing curb cut for 39R Medford Street on Medford Street. Access to the equipment would be through the existing parking lot. The applicant will be required to show that access to the generator site exists that is satisfactory to Fire Prevention.
- i) *Distance from existing facilities:* Not Applicable
- j) *Availability of suitable existing towers, poles, other structures, or alternative technologies, as discussed in Section 14.5.2:* Not Applicable

DECISION:

Present and sitting were Members Elizabeth Moroney, James Kirylo, Joseph Favaloro, Michael Capuano and Dana LeWinter with Kevin Prior absent. Upon making the above findings, Elizabeth Moroney made a motion to approve the request for a special permit. James Kirylo seconded the motion. Wherefore the Planning Board 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 an external 3.3 ft by 8.6 ft by 7 ft tall diesel generator. This approval is based upon the following application materials and the plans submitted by the Applicant and/or contractor:	Building permit	PLNG							
	<table><tr><th>Date (OSPCD Stamp)</th><th>Submission</th></tr><tr><td>2/8/2010</td><td>Initial application, submitted to the City Clerk's Office.</td></tr><tr><td>4/14/10</td><td>Plans and elevations submitted to OSPCD. (T1, GN-1, A-1-4, E-1-3)</td></tr></table>				Date (OSPCD Stamp)	Submission	2/8/2010	Initial application, submitted to the City Clerk's Office.	4/14/10	Plans and elevations submitted to OSPCD. (T1, GN-1, A-1-4, E-1-3)
	Date (OSPCD Stamp)				Submission					
	2/8/2010				Initial application, submitted to the City Clerk's Office.					
4/14/10	Plans and elevations submitted to OSPCD. (T1, GN-1, A-1-4, E-1-3)									
Any changes to the approved site plan and/or elevations that are not <i>de minimis</i> must receive ZBA approval.										
2	The generator and associated equipment shall meet all codes, access requirements, and any additional requirements set by Inspectional Services, Fire Prevention or any other City Department.	BP	ISD FIRE							
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 or associated equipment, 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	Continued	ISD							



	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.			
4	In the event that this facility is no longer used the applicant shall remove the generator and associated fencing, bollards, etc from the site.	Continued	ISD	
5	The applicant shall camouflage and/or screen the installed generator equipment to be approved by Staff	Final signoff	PLNG	
6	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	



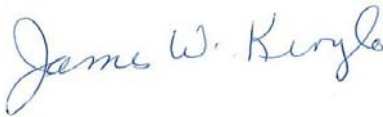
Attest, by the Planning Board:



Elizabeth Moroney



Joseph Favaloro



James Kirylo



Michael Capuano



Dana LeWinter

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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