



CITY OF SOMERVILLE, MASSACHUSETTS
ZONING BOARD OF APPEALS
JOSEPH A. CURTATONE, MAYOR

MEMBERS

HERBERT F. FOSTER, JR., *CHAIRMAN*
ORSOLA SUSAN FONTANO, *CLERK*
RICHARD ROSSETTI
T. F. SCOTT DARLING, III, ESQ.
DANIELLE FILLIS
ELAINE SEVERINO (ALT.)

Case #: ZBA 2008-15
Site: 39R Medford Street
Date of Decision: May 7, 2008
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: May 14, 2008

ZBA DECISION

Applicant Name:	MetroPCS Massachusetts
Applicant Address:	285 Billerica Road, Chelmsford, MA 01849
Property Owner Name:	Bryce Greer, Sure Lock Strategies
Property Owner Address:	357 Neck Road, N. Weymouth, MA 02191
Agent Name:	Peter Cooke
Agent Address:	P.O. Box 738, Westford, MA 01886

Legal Notice: Applicant: MetroPCS Massachusetts LLC & Owner: Bryce Greer seek Special Permit Approval under SZO §7.11.15.1a for the Installation of a wireless communications facility. IP zone. Ward 2.

<u>Zoning District/Ward:</u>	IP zone/Ward 2
<u>Zoning Approval Sought:</u>	§7.11.15.1a
<u>Date of Application:</u>	March 28, 2008
<u>Date(s) of Public Hearing:</u>	May 7, 2008
<u>Date of Decision:</u>	May 7, 2008
<u>Vote:</u>	5-0

Appeal #ZBA 2008-15 was opened before the Zoning Board of Appeals at Somerville City Hall on May 7, 2008. 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 (1) hearing(s) of deliberation, the Zoning Board of Appeals took a vote.

DESCRIPTION:

The applicant, MetroPCS, is proposing to install 1200 s.f. of wireless communications equipment in the interior of the existing warehouse. Tenant space would be retrofitted to allow for the proposed equipment. The applicant will be providing wireless service to Somerville through a third party antenna and fiber optic network and does not anticipate this facility needing traditional wireless antennas. Exterior changes would be the addition of an 5'5" high GPS antenna and two 4'3" HVAC condensers that would be mounted on the roof towards the rear of the building.

FINDINGS FOR SPECIAL PERMIT (SZO §7.11.15.1a):

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 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 change would only affect about 1200 s.f. of the structure and the building would remain predominantly as the existing self-storage facility. Electrical Engineer and Radio Frequency Specialist, Kamal Johari, stated in a letter to the ZBA that the, "proposed facility complies with all applicable Federal and State standards, including those regarding radio-frequency emissions."

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, with those purposes established for the Industrial P (IP) zoning district in which the property is located, namely "(t)o provide opportunity for development in an environment free of excessive noise, odor, smoke, dust, glare, heat, visual disarray, or other nuisance." The majority of the operations will be located within the existing building and will be undetectable from the surrounding area.

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 use is a passive business use and keeps with the current office, manufacturing, and warehousing uses in the area. The component of the proposal that will affect the exterior of the building will be located on the roof of the structure. The two HVAC units will be located at least 12 feet away from the roof's edge and the GPS antenna will be located at least 40 feet away from the edge of the building. The Board finds the nature of these components and the distance from the roof's edge adequate for reducing the visual affects on the surrounding area.

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 two roof tops at different heights (48' and 38'). The proposed GPS antenna and AC units would be mounted on the lower rooftop. The GPS antenna will extend 5'5" and the AC units will extend 4'3" from the lower roof.
- b) *Proximity of facility to residential structures and residential zoning districts:* There is a Residence B zoning district and residential structures approximately 300' from the proposed location of the antennas and HVAC units.
- 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, limiting the prominence of the facility. The proposed rooftop equipment is partially visible from only one vantage point and is not prominent from any public way.
- 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 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:* The proposed location of the facility is an industrially zoned area and the siting of the antenna and HVAC units away from the building edges will work to conceal these components and limit their visual impact. The antenna is setback over 40 feet from the building edge.

- 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 and rooftop components would be through the main entrance to the existing self-storage facility.
- i) *Distance from existing facilities:* (See figures B and C)
- j) *Availability of suitable existing towers, poles, other structures, or alternative technologies, as discussed in Section 14.5.2:* The attached report prepared by the applicant's professional radio frequency engineer indicates that this facility is to be used in conjunction with an alternative technology system proposed by a third party. The MetroPCS facility will be located within the existing industrial site and is therefore compliant with the provisions of Section 14.5.2.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Fillis and Scott Darling. Upon making the above findings, Susan Fontano 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:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is for the establishment of a 1200 s.f. wireless communications equipment facility. This approval is based upon the following application materials and the plans submitted by the Applicant and/or its contractor:	BP/CO	PLNG.									
	<table><tr><th>Date</th><th>Submission</th></tr><tr><td>March 18, 2008</td><td>Initial application and materials submitted to the City Clerk's Office</td></tr><tr><td>March 28, 2008</td><td>Equipment & Ladder Plans (A-3)</td></tr><tr><td>April 28, 2008</td><td>P.E. materials, Plans and Elevations (T-1, Z-1, Z-2, Z-3)</td></tr></table>	Date	Submission	March 18, 2008	Initial application and materials submitted to the City Clerk's Office	March 28, 2008	Equipment & Ladder Plans (A-3)	April 28, 2008	P.E. materials, Plans and Elevations (T-1, Z-1, Z-2, Z-3)			
Date	Submission											
March 18, 2008	Initial application and materials submitted to the City Clerk's Office											
March 28, 2008	Equipment & Ladder Plans (A-3)											
April 28, 2008	P.E. materials, Plans and Elevations (T-1, Z-1, Z-2, Z-3)											
	Any changes to the approved use, site plan and/or elevations must receive ZBA approval.											
2	<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	CONT.	ISD									

	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.			
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. 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.	CONT.	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.	CONT.	ISD	
5	The applicant shall install a manual fire alarm pull station at the exit door in the equipment room (see sheet number A-2) as well as the installation of smoke detection devices and audio/visual horn strobe units in the equipment room.	CO	FIRE	
6	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final sign-	FINAL SIGN OFF	PLNG.	

	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.			
--	--	--	--	--

Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Richard Rossetti
T.F. Scott Darling, III, Esq.
Danielle Fillis
Elaine Severino, (Alt.)

Attest, by the Zoning Board of Appeals 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 _____