



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

PLANNING DIVISION

PLANNING BOARD MEMBERS

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ELIZABETH MORONEY
JAMES KIRYLO
MICHAEL A. CAPUANO, ESQ.
ELIZABETH MORONEY

Case #: PB 2012-15
Site: 331-333 Broadway
Date of Decision: August 23, 2012
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: August 28, 2012

PLANNING BOARD DECISION

Applicant Name:	Sprint Spectrum
Applicant Address:	9 Crosby Drive, Bedford, MA 01730
Property Owner Name:	Anthony K. Paone, Trustee
Property Owner Address:	331-333 Broadway, Somerville, MA 02143
Agent Name:	Scott Lacy, Prince Lobel Tye, LLP
Agent Address:	100 Cambridge Street, Boston, MA 02114

Legal Notice: Applicant Sprint Spectrum and Owner Anthony K. Paone, seek a Special Permit under SZO §7.11.15.3 and SZO §14 for the installation of wireless communications equipment consisting of the replacement of three existing antennas and related equipment and cables including one GPS antenna and one equipment cabinet.

<u>Zoning District/Ward:</u>	CCD 55 zone/Ward 4
<u>Zoning Approval Sought:</u>	§7.11.15.3 & §14
<u>Date of Application:</u>	February 6, 2012
<u>Date(s) of Public Hearing:</u>	(ZBA - 3/14, 4/4, 4/18, 5/2, 5/16, 6/6, 6/20 & 7/11/12) (PB - 8/2, 8/16 & 8/23/12)
<u>Date of Decision:</u>	August 23, 2012
<u>Vote:</u>	5-0

Appeal #PB 2012-15 was opened before the Planning Board at Somerville City Hall on August 2, 2012. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L. c. 40A,



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sec. 11 and the Somerville Zoning Ordinance. After one hearing of deliberation, the Planning Board took a vote.

DESCRIPTION:

The Applicant is proposing to modify the existing wireless communication facility by removing 6 CDMA antennas which are currently mounted on the rooftop of the building. In their place, the Applicant would like to install 3 panel antennas and 6 remote radio heads below the panel antennas. The remote radio heads will be mounted to the penthouse façade below the antennas. Additionally, the Applicant would like to install 1 new equipment cabinet on the existing Sprint equipment platform and replace the existing GPS antenna with a newer model. The proposed antennas and cabinets are of similar size and appearance to the existing and the antennas will not exceed the height of the penthouse.

In addition, three 1¼" hybrid cables, connected to the new remote radio heads, will be routed from an existing cable tray on the roof down the interior right side courtyard façade to the proposed fiber and power distribution box located within the equipment compound. The fiber and power conduits are also proposed to be upgraded at this time, which will also be retained within the equipment compound in the center courtyard.

FINDINGS FOR SPECIAL PERMIT (SZO §5.1 & §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 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. Sprint Spectrum is a licensed company that is required to comply with all state and federal regulations.

Review Criteria for Telecommunications Facilities:

- a) *Height of proposed facility:* The building is four stories in height with a partially raised basement, due to the location of the building at the base of Winter Hill. This building is one of the tallest in the surrounding area and there are no buildings in the immediate area along Broadway that have more height.
- b) *Proximity of facility to residential structures and residential zoning districts:* The property is located in the Corridor Commercial District (CCD-55) and acts as a buffer to the residential neighborhood north and east of the Princeton Apartments. A large majority of the residential buildings adjacent to this apartment building are three story multi-family structures.
- c) *Nature of uses on adjacent and nearby properties:* The subject property is located within a CCD-55 zone. The surrounding area has a wide variety of uses including residential of all types,



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commercial, office, and retail. The proposed installation will not generate any objectionable odor, fumes, glare, smoke, or dust nor require additional lighting or signage. Noise from the equipment will be minimal and should not be heard beyond the confines of the property where it will be placed. No increased traffic or hindrance to pedestrian movements will result from the proposed installation either. Furthermore, in connection with its FCC license, Sprint is prohibited from interfering with radio or television transmissions.

- d) *Surrounding topography and prominence of proposed facility:* Winter Hill is a broad hill that extends northwest along Broadway toward Magoun Square. The subject building is the tallest within the immediate area. The height regulation in the Corridor Commercial District (CCD-55) is 55 feet.
- e) *Surrounding tree cover and foliage:* Trees located in the immediate area will be unaffected by the proposed changes to the cellular equipment.
- 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:* Guidelines of Article 14 of the SZO state that antennas should be located more than 10 feet from above the roofline, should be located at a minimum of 10 feet from the roof edge and below a forty-five degree plane, beginning at the cornice of the building.

Of the 3 antennas proposed to be replaced, 1 antenna is located less than 10 feet from a roof edge. One antenna and 2 radio heads, proposed to be mounted near the rear of the building, is only 9 feet from the edge of the building; however, this location is consistent with the previous Special Permit granted in 2005. The proposed antennas and equipment cabinet are of similar size and appearance to the existing and the antennas will not exceed the height of the penthouse.

- g) *Location of tower, with particular reference to the existence of more suitable locations, as specified in Section 14.3:* The application is in compliance with this review criterion. The Applicant is proposing to update the antennas on an existing wireless telecommunications facility within a commercial corridor district. The height of the building at this site makes it an attractive location for wireless installations. The antennas will remain virtually hidden from view, due to the height of the building, and will not protrude above the roofline of the shelters, so the viewshed of the area will remain the same.
- h) *Proposed ingress and egress:* There is access to the roof through a penthouse. The ingress and egress to the site would not be impacted by the proposal.
- i) *Distance from existing facilities:* This proposal requests to update an existing wireless facility not establish a new facility within the neighborhood.
- j) *Availability of suitable existing towers, poles, other structures, or alternative technologies, as discussed in Section 14.5.2. Section 14.5.2 states that no new sites for telecommunications facilities shall be permitted unless the Applicant demonstrates that existing sites cannot meet the Applicant's need:* The site where the Applicant is proposing to install the three new antennas is currently operating as a wireless telecommunications facility.

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, as conditioned, is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to promoting "the health, safety, and welfare of the inhabitants of the City of Somerville; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to facilitate the adequate provision of... other public requirements; to conserve the



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value of land and buildings; to preserve the historical and architectural resources of the City; and to encourage the most appropriate use of land throughout the City.

The proposal, as conditioned, is also consistent with those purposes established for the Corridor Commercial Districts (SZO §6.1.22) which are to promote appropriate infill development along heavily traveled transportation corridors, especially where those corridors meet at named Squares. Primary goals for these districts are to encourage active mid-rise commercial and residential uses that contribute to a multi-modal-friendly street; increase commercial investment in high-profile and accessible areas; preserve and complement historic structures; discourage inappropriate auto-oriented and trip-generating uses along transit corridors; and to promote pedestrian and bicycle activity. The Board finds that the replacement of the antennas and associated equipment, as conditioned, will not negatively impact the local commercial, office, or residential uses in the area.

Furthermore, the Board finds that the proposal, as conditioned, is consistent with the purposes set forth in Article 14 of the SZO 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 telecommunication 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 located 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 proposal and the design of the equipment to be compatible with the surrounding area and land uses. The new panel antennas and radio heads will be minimally visible, as they are now, and the new equipment cabinet will be placed on the existing Sprint equipment platform located in the interior courtyard. The new GPS antenna will be mounted on the existing pipe that is located on the right side, above the rear four-story bay, and will not be visible from the ground. Photo simulations, taken from a four locations within the neighborhood, all indicate there will be a limited impact of the updated equipment on the surrounding neighborhood.

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;



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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 proposed installation will not generate any glare, light, smoke, dust or vibrations nor will it emit any noxious or hazardous materials or substances. Noise from the equipment will be minimal and should not be heard beyond the confines of the property where it will be placed. The proposed installation will be located on an existing building and therefore no pollution of waterways or ground water will occur. Additionally, the proposed installation will not be tied into any public sewer or private wastewater disposal system.

DECISION:

Present and sitting were Members Kevin Prior, Elizabeth Moroney, Joseph Favaloro, James Kirylo and Michael Capuano. Upon making the above findings, Kevin Prior made a motion to approve the request for a special permit. Elizabeth Moroney 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	<p>Approval is for a Special Permit under SZO §7.11.15.3 and SZO §14 for the installation of wireless communications equipment consisting of the replacement of three existing antennas and related equipment and cables including one GPS antenna and one equipment cabinet. This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>(February 6, 2012)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>August 30, 2011 (July 19, 2012)</td> <td>Locus and site plans submitted to OSPCD (T-1, GN-1, GN-2, C-1, A-1, A-2, A-3, A-4, A-5, AAV-1, AAV-2, AAV-3, E-1, E-2, & E-3)</td> </tr> <tr> <td>March 28, 2012 (July 19, 2012)</td> <td>Photo simulations submitted to OSPCD (8 pages total)</td> </tr> <tr> <td>September 6, 2011 (August 17, 2012)</td> <td>Sheet A-1, Rooftop Plan & Equipment Layout</td> </tr> </tbody> </table> <p>Any changes to the approved site plan that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	(February 6, 2012)	Initial application submitted to the City Clerk's Office	August 30, 2011 (July 19, 2012)	Locus and site plans submitted to OSPCD (T-1, GN-1, GN-2, C-1, A-1, A-2, A-3, A-4, A-5, AAV-1, AAV-2, AAV-3, E-1, E-2, & E-3)	March 28, 2012 (July 19, 2012)	Photo simulations submitted to OSPCD (8 pages total)	September 6, 2011 (August 17, 2012)	Sheet A-1, Rooftop Plan & Equipment Layout	BP/CO	ISD/PIng.	
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2	All antennas and related equipment must be painted, or repainted if necessary, to match, as closely as possible, the surrounding colors and materials of the building;	CO	FP	
3	The Applicant shall use the existing raceway on the rear of the building and should not place additional wires overhead.	CO	Wiring Inspector	
4	<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.	CONT.	ISD	
5	<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.	CONT.	Health Dept.	
6	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.	CONT.	ISD	
7	The applicant shall remove any of that carrier's unused or non-operating wireless equipment prior to installation.	Signoff	Plng.	



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8	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.	
9	The Applicant shall provide a listing of all existing sites within the City and an inventory of their equipment to Planning Staff prior to the issuance of a Building Permit.	BP	Plng.	



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Attest, by the Planning Board:



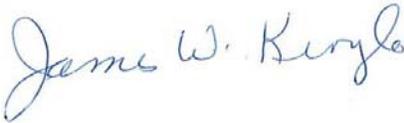
Kevin Prior, Chairman



Elizabeth Moroney



Joseph Favaloro



James Kirylo



Michael A. Capuano, Esq.

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.



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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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