



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA # 2012-109
Site: 425 Broadway
Date of Decision: January 23, 2013
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: February 6, 2013

ZBA DECISION

Applicant Name: Bell Atlantic Mobile of Massachusetts Corporation, Ltd. d/b/a Verizon Wireless
Applicant Address: 400 Frieberg Parkway, Westboro, MA 01581
Property Owner Name: The Summit, LLC
Property Owner Address: 54 Highland Avenue, Somerville, MA 02145
Agent Name: Daniel D. Klasnick
Agent Address: 10 Cedar Street, Woburn, MA 01801

Legal Notice: Applicant, Bell Atlantic Mobile of Massachusetts Corporation, Ltd., d/b/a Verizon Wireless, and Owner, The Summit, LLC, seeks Special Permit Approval (§5.1) under SZO §7.11.15.3 and §14 for the installation of a wireless communications facility consisting of antennas and related equipment and cables, §4.4.1 for the alteration of an existing nonconforming structure to relocate antennas and related equipment, and a Variance (§5.5) from setback requirements §14.3. *The variance is not required. The existing antennas at the site were constructed prior to the setback requirements and therefore the site is an existing nonconforming structure that can be modified by Special Permit under §4.4.1 in order to locate other antennas within the setback.

Zoning District/Ward: RC zone/Ward 5
Zoning Approval Sought: §5.1, §7.11.15.3, §14, §4.4.1 & §5.5
Date of Application: December 13, 2012
Date(s) of Public Hearing: January 23, 2013
Date of Decision: January 23, 2013



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Vote:

5-0

Appeal #ZBA 2012-109 was opened before the Zoning Board of Appeals at Somerville City Hall on January 23, 2013. 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.

DESCRIPTION:

Verizon is proposing alterations to the existing equipment on the rooftop of the building at 425 Broadway in order to provide Forth Generation (4G) Long Term Evolution (LTE) services to the surrounding area. The application states that 4G LTE provides affordable, high-speed internet service. The triangular array on a pole on top of the existing penthouse will be removed as well as the 6 foot dish antenna that is mounted to the side of the penthouse. There will be no change to the total number of twelve panel antennas that are currently on the roof and penthouse. The antennas will be attached to frames on the roof. One of the frames will be reused from the decommissioned Sprint-Nextel equipment and three other frames will be constructed to hold the remaining antennas. The existing cable tray will be used to accommodate the new cables and it will be painted to match the color of the building.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1, §5.1, §7.11.15.3 and §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 such 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. Bell Atlantic Mobile of Massachusetts Corporation, Ltd., d/b/a Verizon Wireless 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 base of the building to the top roof beam is 77 feet and the height to the top of the proposed antennas is 84 feet. This building is the tallest in the surrounding area and it sits on an area of high elevation as well making it an ideal site for coverage.
- 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 about this property. The Board finds that several companies currently have wireless communications equipment on this structure, as well as the nearby 391 Broadway. The change to the existing equipment will be an improvement to the site and improve the views of the equipment from the surrounding residential structures. This project would have much greater impact if installed at a location without existing equipment.



- c) *Nature of uses on adjacent and nearby properties:* The site is located in a Residence C district. The surrounding neighborhood is a mix of residential and commercial uses, though primarily residential. 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, Verizon is prohibited from interfering with radio or television transmissions.
- d) *Surrounding topography and prominence of proposed facility:* The building is the tallest in the area and it sits on area of high elevation. This is why it is appealing to cellular companies. The proposed rooftop antennas are visible from several vantage points, but moving the antennas to the rooftop and removing the dish antenna will be a great improvement to the site. The antennas will match the visual appearance of the existing AT&T and Clear Wireless LLC antennas on the site.
- e) *Surrounding tree cover and foliage:* The building upon which the proposed antennas will sit is taller than all trees in the surrounding area and therefore no interference is anticipated with regard to the projection required for the antennas.
- 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:* The antennas will be mounted to frames on the rooftop of the building and will be situated at the same height as the existing antennas on similar mounting frames. The antennas can also be painted any color desired to help camouflage them. All cabling will run along the surface of the roof and will not be visible. The electronic equipment will be located inside the interior existing equipment room located on the first floor of the building. Façade mounting is not possible because there is not sufficient space to façade mount on the penthouse and there are large glass windows and a roof deck along the top story of the building leaving no space for mounting antennas. The Applicant stated that false chimneys at this location would not be possible due to the amount of existing equipment on the roof that limits roof area and the required size and number of antennas would necessitate a substantial enclosure that would likely be more intrusive than the appearance of the proposed antennas.

The antennas will be located so that they are not more than ten feet above the roofline and the existing antennas that are higher than this regulation allows will be removed. The large dish that is very visible from abutting streets will also be removed. One of the existing frames that will be reused is closer than ten feet from the roof edge and does not comply with the requirement for rooftop antennas to be setback below a 45 degree plane. Because this is an existing nonconforming situation, the antennas may be swapped out. The two new frames that do not comply with these setback requirements may be installed by Special Permit under 4.4.1. In considering a special permit under §4.4, Staff find that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. The existing equipment on the roof creates limited roof area and the need to have antennas pointing in specific locations around the building dictated the current configuration. The new antennas are visible as shown in the photosimulations; however they are less detrimental than the current arrays on the penthouse and they are consistent in appearance to the other wireless carrier antennas making the rooftop appear more organized and less cluttered.

- 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 locate the antennas on an existing wireless telecommunications facility at a co-location site. The other carriers at the site are AT&T and Clear Wireless LLC. Sprint-Nextel is no longer operating at this site and the company's antennas will be removed.



- h) *Proposed ingress and egress:* There is existing access to the roof and equipment on the roof via a ladder and hatch in the building. The building is accessible via Broadway.
- i) *Distance from existing facilities:* The accompanying map shows the locations of other existing Verizon antennas in Somerville and the current coverage gap that this proposal will fill.
- 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 and relocate 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 secure safety from fire, panic and other dangers to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality."

The Board also finds that the proposal, as conditioned, is consistent with the purposes established for the Residence C (RC) district in which the property is located, namely, "[t]o 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." The Board finds the addition of the antennas and associated equipment, as conditioned, will not negatively impact the local neighborhood 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 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."

The Board finds the project and the way the equipment is designed to be compatible with the surrounding area and the appearance of other carriers' antennas on the roof. The antennas will be mounted to one of the existing frames on the rooftop of the building and three new frames will be added. The antennas can be painted any color desired. The number of antennas at the site will not change; however, the antennas will be lowered significantly so that they are less prominent. All cabling will run along the surface of the roof in existing cable trays that will be painted and will not be visible. The electronic equipment will be located inside the interior existing equipment room located on the first floor of the building. Photo simulations were taken from a variety of locations in the neighborhood and they indicate there will be limited impact of the installation 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; 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. In connection with its FCC license, Verizon is prohibited from interfering with radio or television transmissions and furthermore, these transmissions function at different frequencies than those licensed to Verizon for the proposed telecommunications equipment.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Josh Safdie. Upon making the above findings, Susan Fontano made a motion to approve the request for a Special Permit. Richard Rossetti 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 installation of a wireless communications facility under SZO §7.11.15.3 and SZO §14 consisting of twelve panel antennas and related equipment and cables. This approval is based upon the following application materials and the plans submitted by the Applicant: | BP | Plng. | | |
| | Date (Stamp Date) | | | | Submission |
| | December 2012 | | | | Initial application, submitted to the City Clerk's Office |
| | December 10, 2012 | Photo simulations submitted with application | | | |



| | | | | | |
|---|--|--|------------------|-------|--|
| | December 12, 2012 | Plans (T-1 title sheet, Z-2 roof plan, Z-3 East Elevation, Z-4 North and South Elevations, Z-5 West Elevation, Z-1 Plot Plan | | | |
| | Any changes to the approved site plan, photograph simulations, and/or elevations that are not <i>de minimis</i> must receive SPGA approval. | | | | |
| 2 | The antennas shall be painted to match the color of the antennae frame 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 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. | | Continued | ISD | |
| 4 | <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 | |
| 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 within ninety (90) days of notice from the City of Somerville informing the owner of such abandonment. | | Continued | ISD | |
| 6 | The applicant shall remove any of that carrier's unused or non-operating wireless equipment prior to installation. | | BP | 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 | | Final inspection | DPW | |



| | | | | |
|---|--|---------------------|-------|--|
| | property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard. | | | |
| 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. | |



Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Richard Rossetti
Danielle Evans
Josh Safdie (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 _____

