



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

PLANNING DIVISION

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

**Case #: ZBA # 2012-16**  
**Site: 49 Davis Square**  
**Date of Decision: July 11, 2012**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: July 23, 2012**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Sprint Spectrum
<b>Applicant Address:</b>	9 Crosby Drive, Bedford, MA 01730
<b>Property Owner Name:</b>	BF Properties
<b>Property Owner Address:</b>	P.O. Box 380286, Cambridge, MA 02238
<b>Agent Name:</b>	Scott Lacy/Prince Lobel Tye, LLP
<b>Agent Address:</b>	100 Cambridge Street, Boston, MA 02114

Legal Notice: Applicant Sprint Spectrum and Owner BF Properties, 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 two equipment cabinets.

<u>Zoning District/Ward:</u>	CBD zone/Ward 6
<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>	3/14,
<u>Date of Decision:</u>	July 11, 2012
<u>Vote:</u>	5-0

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Appeal #ZBA 2012-16 was opened before the Zoning Board of Appeals at Somerville City Hall on April 4, 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, 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 Applicant proposes to modify the existing facility by removing 3 panel antennas that are currently installed within stealth canisters and mounted on the rooftop of the building. The Applicant would like to install 3 new panel antennas in their place, within 3 new stealth containers, along with 6 remote radio heads beneath the antennas and 2 new equipment cabinets that are located within the existing Sprint equipment platform will replace two existing cabinets. The new panel antennas, similar in size and appearance, will be installed within the new, 2” larger, stealth canisters that will be mounted to the rooftop of the building. The remote radio heads will be installed beneath the antennas, also within the new stealth canisters. Presently, there are 4 equipment cabinets located within the equipment platform. The new equipment cabinets will be mounted next to the existing cabinets, all within the equipment room. The Applicant additionally intends to replace the existing GPS antenna with a new model that is considerably smaller in size.

**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.

Photo simulations show the new stealth canisters that would contain the proposed replacement antennas. Since the new antennas will be contained within new canisters that are 2” larger in diameter, minimal visible changes will take place.

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, L.P. 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 height of the building is fifty feet and the fly gallery is an additional 66 feet tall. This building is one of the tallest in the surrounding area and there are no buildings in the immediate area that are taller.
- b) *Proximity of facility to residential structures and residential zoning districts:* The property is located in the Central Business District and there are other properties between this building and the Residence B zoning districts to the north and south.
- c) *Nature of uses on adjacent and nearby properties:* The subject property is located within a Central Business District (CBD) zone. The surrounding area has a wide variety of uses including residential of all types, 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



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traffic or hindrance to pedestrian movements will result from the proposed installation either.

- d) *Surrounding topography and prominence of proposed facility:* The surrounding area is flat and this building is the tallest in the immediate area, hence the appeal to cellular companies. The height regulation in the Central Business District is 50 feet and the building reaches this height.
- e) *Surrounding tree cover and foliage:* Trees located in Davis Square 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 not be located more than 10 feet 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. The three antennas proposed to be replaced are all located more than ten feet from any roof edge and will remain within new stealth canisters to be placed on the rooftop, along with six radio heads. The new GPS antenna will not be visible from the ground. The two new equipment cabinets will be located within the equipment room and therefore not impact the viewshed of the area. Staff finds the project and equipment design to be compatible with the surrounding area and land uses.
- 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 business district. The height of the building at this site makes it an attractive location for wireless installations. The antennas will remain hidden from view and will not protrude over the roofline of the shelters. Therefore, the viewshed of the area will not be impacted.
- 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 Davis Square.
- 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 proposes to replace three 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 facilitate the adequate provision of...other public requirements; to conserve the value of land and buildings; to preserve the historical and architectural resources of the City; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality.

The proposal, as conditioned, is also consistent with those purposes established for the Central Business District (CBD) which are to preserve and enhance central business areas for retail, business services, housing, and office uses, and to promote a strong pedestrian character and scale in those areas. A primary goal for these



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districts is to provide environments that are safe for and conducive to a high volume of pedestrian traffic, with a strong connection to retail and pedestrian accessible street level uses. 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 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 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 contained within new stealth canisters, as they are now, and the two new equipment cabinets will be placed within the Sprint equipment room. While the GPS antenna is visible, the 5 inch height and 3 inch diameter are minimally, if at all visible from the ground below. Photo simulations, taken from a variety of locations in Davis Square, all indicate that the new antennas, to be located within new stealth canisters, will not negatively impact the area.

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



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license, Sprint is prohibited from interfering with radio or television transmissions and furthermore, these transmissions function at different frequencies than those licensed to Sprint for the proposed telecommunications equipment.

**DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Scott Darling and Josh Safdie with Danielle Evans and Elaine Severino absent. 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	<p>Approval is for the installation of wireless communications equipment under SZO §7.11.15.3 and §14 consisting of the replacement of three existing panel antennas and a GPS antenna, as well as related equipment and cables including two additional equipment cabinets. 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>January 10, 2012 (June 27, 2012)</td> <td>Site and plot plans submitted to OSPCD (T-1, GN-1, GN-2, C-1, A-1, A-2, A-3, A-4, A-5, S-1, E-1, E-2, and E-3)</td> </tr> <tr> <td>March 28, 2012 (July 2, 2012)</td> <td>Photo simulations submitted to OSPCD</td> </tr> </tbody> </table> <p>Any changes to the approved site plan, photograph simulations, or elevations 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	January 10, 2012 (June 27, 2012)	Site and plot plans submitted to OSPCD (T-1, GN-1, GN-2, C-1, A-1, A-2, A-3, A-4, A-5, S-1, E-1, E-2, and E-3)	March 28, 2012 (July 2, 2012)	Photo simulations submitted to OSPCD	BP/CO	ISD/PIng.	
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March 28, 2012 (July 2, 2012)	Photo simulations submitted to OSPCD											



2	<p><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.</p>			
3	<p><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.</p>		Health Dept	
4	<p>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.</p>	CONT.	ISD	
5	<p>The applicant shall remove any of that carrier's unused or non-operating wireless equipment prior to installation.</p>	Signoff	Plng.	
6	<p>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.</p>	Final sign off	Plng.	



Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*  
Orsola Susan Fontano, *Clerk*  
Richard Rossetti  
T.F. Scott Darling, III, Esq.  
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 \_\_\_\_\_



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