



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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EXECUTIVE DIRECTOR

PLANNING DIVISION

ZONING BOARD OF APPEALS MEMBERS

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ELAINE SEVERINO
JOSH SAFDIE

Case #: ZBA 2015-31
Site: 49 Davis Square
Date of Decision: August 5, 2015
Decision: Petition Approved with Conditions
Date Filed with City Clerk: August 18, 2015

ZBA DECISION

Applicant Name:	Bell Atlantic Mobile of Massachusetts Corporation, LTD
Applicant Address:	40 Friberg Parkway, Westboro, MA 01581
Property Owner Name:	BF Somerville Properties, LLC
Property Owner Address:	220 Massachusetts Avenue, Arlington, MA 02424
Agent Name:	Daniel D. Klasnick, Esq.
Agent Address:	210 Broadway, Suite 204, Lynnfield, MA 01940

Legal Notice: Applicant, Bell Atlantic Mobile of Massachusetts Corp, and Owner BF Somerville Properties LLC, seek a Special Permit per SZO §7.11.15.3 and §14 to add wireless and ancillary equipment at an existing facility.

<u>Zoning District/Ward:</u>	CBD zone/Ward 6
<u>Zoning Approval Sought:</u>	§7.11.15.3 & §14
<u>Date of Application:</u>	May 21, 2015
<u>Date(s) of Public Hearing:</u>	August 5, 2015
<u>Date of Decision:</u>	August 5, 2015
<u>Vote:</u>	

Appeal #ZBA 2015-31 was opened before the Zoning Board of Appeals at Somerville City Hall on August 5, 2015. 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:

The proposal is to add 6 new antennas within two fiberglass chimneys in order to conceal their appearance on the roof. There will be two additional condensers installed next to the existing condensers facing Seven Hills Park New equipment that is not visible will be installed on the roof including remote radio heads, a generator, and cabling.

FINDINGS FOR SPECIAL PERMIT (SZO §7.11.15.3 & §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.

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. Bell Atlantic Mobile of Massachusetts Corp d/b/a Verizon Wireless 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 many of this height in the square but is centrally located and will serve the most amount of people.
- 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 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 fiberglass chimneys proposed to be replaced are located more than ten feet from any roof edge and are 10' high. The new condensers are placed with existing condensers on the least visible side of the building. 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. This is an existing wireless facility which makes it a suitable location to collocate equipment. The antennas will remain hidden from view.
- 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:* The proposal will add Verizon capacity in Davis Square. There are existing facilities in Teele Square, Powderhouse Circle, and on Spring Hill at Cedar and Highland.
- 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:* There is a need for more capacity in the system in Davis Square since this is a neighborhood center and transit hub.

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 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. Staff finds that the new 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 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 proposal and the design of the equipment to be compatible with the surrounding area and land uses. The new antennas and radio heads will be contained within fiberglass chimneys while other associated equipment will not be visible. Photo simulations, taken from a variety of locations in Davis Square, all indicate that the new antennas, located within new stealth chimneys, 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 license, Verizon 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.

6. Housing Impact: *Will not create adverse impacts on the stock of existing affordable housing.*

The project will not have an impact on existing affordable housings.

7. SomerVision Plan: *Complies with the applicable goals, policies and actions of the SomerVision plan, including the following, as appropriate: Preserve and enhance the character of Somerville's neighborhoods, transform key opportunity areas, preserve and expand an integrated, balanced mix of safe, affordable and environmentally sound rental and homeownership units for households of all sizes and types from diverse social and economic groups; and, make Somerville a regional employment center with a mix of diverse and high-quality jobs. The areas in the SomerVision map that are designated as enhance and transform should most significantly*



contribute towards the SomerVision goals that are outlined in the table below. The areas marked as conserve are not expected to greatly increase the figures in the table since these areas are not intended for large scale change.

The project will not directly contribute to the metrics of SomerVision but will allow minor modifications to a building to accommodate the changing needs of residents and visitors of Davis Square.



DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, Josh Safdie and Anne Brockelman with Danielle Evans absent. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Elaine Severino 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 6 new antennas mounted in fiberglass chimneys as well as related equipment and cables. 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>(May 21, 2015)</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>July 13, 2015</td> <td>Site and plot plans submitted to OSPCD (T-1 Title Sheet, Z-1 500’ Abutters Map, Z-2 Proposed Basement Plan, Z-3 Proposed Roof Plan, Z-4 Proposed East Elev, Z-5 Proposed South Elev, Z-6 Proposed West Elev, Z-7 Proposed North Elev)</td> </tr> <tr> <td>(July 27, 2015)</td> <td>Photo Sims (Cover, Site Plan, Photo 1A, Photo 1B, Photo 2A, Photo 2B, Photo 3A, 3B, Photo 4A, Photo 4B)</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	(May 21, 2015)	Initial application submitted to the City Clerk’s Office	July 13, 2015	Site and plot plans submitted to OSPCD (T-1 Title Sheet, Z-1 500’ Abutters Map, Z-2 Proposed Basement Plan, Z-3 Proposed Roof Plan, Z-4 Proposed East Elev, Z-5 Proposed South Elev, Z-6 Proposed West Elev, Z-7 Proposed North Elev)	(July 27, 2015)	Photo Sims (Cover, Site Plan, Photo 1A, Photo 1B, Photo 2A, Photo 2B, Photo 3A, 3B, Photo 4A, Photo 4B)	BP/CO	ISD/ PIng.	
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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 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.	Perp	ISD	
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 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.	Perp	Health Dept	
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. Failure to remove may result in a fine or penalty.	CONT.	ISD	
5	The applicant shall remove any of that carrier's unused or non-operating wireless equipment prior to installation.	Signoff	Plng.	
6	The Applicant shall comply with the conditions in the HPC's Certificate of Appropriateness	CO	Plng.	
7	The Applicant shall remove any of that carrier's unused or non-operating wireless equipment prior to installation.	BP	Plng.	



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8	The Applicant shall at his/her 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 property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard.	Final Inspection	DPW	
9	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	
10	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:

Orsola Susan Fontano, *Chairman*
Richard Rossetti, *Clerk*
Elaine Severino
Josh Safdie
Anne Brockelman, (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 _____

