



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

MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

PLANNING DIVISION

**ZONING BOARD OF APPEALS MEMBERS**

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JOSH SAFDIE (ALT.)  
BRANDY BROOKS (ALT.)

**Case #: ZBA 2014-42**  
**Site: 289 Highland Avenue**  
**Date of Decision: June 18, 2014**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: June 25, 2014**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Bell Atlantic Mobile of Massachusetts Corp. Ltd. d/b/a Verizon Wireless
<b>Applicant Address:</b>	40 Friberg Parkway, Westboro, MA 01581
<b>Property Owner Name:</b>	289 Highland Avenue Realty, Inc.
<b>Property Owner Address:</b>	59 Union Square, Suite 200, Somerville, MA 02143
<b>Agent Name:</b>	Daniel D. Klasnick, Esq.
<b>Agent Address:</b>	16 Olde Farm Road, Boxford, MA 01921

Legal Notice: Applicant, Bell Atlantic Mobile of Massachusetts Corporation, Ltd. d/b/a Verizon Wireless, and Owner, 289 Highland Ave Realty Inc., seek a Special Permit under SZO §7.11.15.3 and SZO §14 to establish a collocation wireless communication facility, which includes the installation of panel antennas, remote radio heads, a basement equipment room and other related equipment. RC zone. Ward 6.

<u>Zoning District/Ward:</u>	RC zone/Ward 6
<u>Zoning Approval Sought:</u>	§7.11.15.3 & §14
<u>Date of Application:</u>	May 14, 2014
<u>Date(s) of Public Hearing:</u>	June 18, 2014
<u>Date of Decision:</u>	June 18, 2014
<u>Vote:</u>	5-0

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Appeal #ZBA 2014-42 was opened before the Zoning Board of Appeals at Argenziano School Cafeteria on June 18, 2014. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143  
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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 12 panel antennas within stealth enclosures, painted to match, with radio heads. The antennas will be mounted in three sectors of four antennas per sector 1) on the south facade; 2) on the west facade; and 3) on east facade. The proposal also requests to construct a 220 square foot equipment room in the existing basement of the building. Last, the Applicant proposes to install a natural gas emergency generator also located in the basement, parking level, of the building. This generator will be connected to an existing gas line, to be used for back-up power only in the event of an emergency.

**FINDINGS FOR SPECIAL PERMIT (SZO §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."

Under SZO §7.11.15.3 establishment of a wireless communications facility, which includes the addition and replacement of wireless equipment, requires a Special Permit. The Ordinance requires the Applicant to follow guidelines and procedures as 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. NSAC, LLC is an FCC licensed company that is required to comply with all FCC rules governing construction requirements, technical standards, interference protection, power and height limitations, and radio frequency standards.

*Review Criteria for Telecommunications Facilities SZO §14.5.1:*

- a. *Height of proposed facility:* The masonry building is five stories with 1 elevator penthouse that extends above the roofline. This installation would install four antennas on the east, west, and south walls with the same height as the existing parapet. The alterations do not change the height of the building.
- b. *Proximity of facility to residential structures and residential zoning districts:* The building is a residential structure in the Residence C district. Other residential structures directly abut this property. T-Mobile has established a wireless communications facility on the rooftop of this structure. Therefore, additional equipment would have a limited impact on the surrounding residential structures.
- c. *Nature of uses on adjacent and nearby properties:* The subject property is located at the corner of Highland Avenue and Cedar Street. Properties that front onto Highland Avenue are either mixed use or commercial. 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.



- d. *Surrounding topography and prominence of proposed facility:* The subject building is the tallest in the area. The surrounding area is the peak of a hill and while other buildings are comparable, this is still the tallest in the immediate area. Although the proposed antennae are visible from several vantage points, the antennae will be painted to match the color of the existing antennae which will reduce their prominence from the public way.
- e. *Surrounding tree cover and foliage:* The surrounding area includes a park and several street trees that are significantly lower in height than the building roofline.
- 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 proposal is designed to be compatible with the surrounding area. Though the panel antennae and radio heads are visible from several vantage points, a condition of this report is that both are painted to match the existing equipment, which will reduce their visibility to the public.
- g. *Location of tower, considering more suitable locations:* The guidelines in Article 14 state that service providers, when possible, should co-locate and/or locate on facilities owned or managed by the City of Somerville. This proposal is compliant with the intent of this guideline since T-Mobile has an existing facility at this site, but the site is not owned by the City.
- h. *Proposed ingress and egress:* The existing stairwell and penthouse will be utilized to access the rooftop.
- i. *Distance from existing facilities:* The site currently operates as a T-Mobile wireless facility. The nearest Verizon facility is in Porter Square.
- j. *Availability of suitable existing towers, poles, other structures, or alternative technologies, as discussed in Section 14.5.2:* This subject property is an existing wireless communications facility. The Applicant has demonstrated that the location and antennae technology are most suitable. They will be mounted in a way that is symmetrical with the existing panel antennas.

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 provide for and maintain the uniquely integrated structure of uses in the City; to protect health; to secure safety from fire, panic and other dangers; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality.

The proposal is consistent with the purpose of the Residence C district, §6.1.3, which is, "To 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 wireless communication facility expansion is consistent with the purposes of the Residence C district as the panel antennae will increase speed of the wireless network for local residents, businesses, and visitors.

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; (as noted in finding 2b, the proposal is in a residential area but it complies with the other purposes and standards of the Ordinance);*
- 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;*
- 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 subject property is located in Spring Hill at the corner of Highland Avenue and Cedar Street. Properties that front onto Highland Avenue are either mixed use or commercial. The larger surrounding neighborhood is predominantly single, two- and three-family dwellings.

There will be few impacts to this proposal. The site is an existing wireless facility and the equipment being installed will match the existing equipment. This building is the most appropriate building in the area because of the height and architectural quality. Staff finds the project to be compatible with the surrounding area and land uses.

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.



**DECISION:**

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Elaine Severino and Josh Safdie with Danielle Evans and Brandy Brooks absent. 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	<p>Approval is for a Special Permit under SZO §7.11.15.3 and SZO §14 to establish a collocation wireless communication facility, which includes the installation of panel antennas, remote radio heads, a basement equipment room and other related equipment. 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 14, 2014)</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>May 12, 2014</td> <td>Photo Sims</td> </tr> <tr> <td>(June 10, 2014)</td> <td>Coverage Key (Before &amp; After)</td> </tr> <tr> <td>May 13, 2014 (June 10, 2014)</td> <td>Plans submitted to OSPCD (T-1 Title Sheet, Z-1, Z-2, Z-3, &amp; Z-4)</td> </tr> </tbody> </table> <p>Any changes to the approved plans, photo simulations, and/or elevations that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	(May 14, 2014)	Initial application submitted to the City Clerk’s Office	May 12, 2014	Photo Sims	(June 10, 2014)	Coverage Key (Before & After)	May 13, 2014 (June 10, 2014)	Plans submitted to OSPCD (T-1 Title Sheet, Z-1, Z-2, Z-3, & Z-4)	BP/CO	ISD/PIng.	
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2	The Applicant or Owner shall meet the Fire Prevention Bureau’s requirements.	CO	FP											
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 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	Continuous	ISD											



	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.			
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.	Continuous	Health Dept.	
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.	Continuous	ISD	
6	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	
7	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	
8	The panel antennas and remote radio heads (existing and new) will be painted to match the existing equipment.	Final Sign Off	Plng.	
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  
Elaine Severino  
Josh Safdie

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 \_\_\_\_\_

