



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA # 2013-27
Site: 51 McGrath Highway
Date of Decision: July 10, 2013
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: July 15, 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:	Somerville Storage Partners, LLC
Property Owner Address:	115 Schmitt Blvd, Farmingdale, NY 11735
Agent Name:	Daniel D. Klasnick
Agent Address:	10 Cedar Street, Woburn, MA 01801

Legal Notice: Applicant, Bell Atlantic Mobile of Massachusetts Corp Ltd d/b/a Verizon Wireless, and Owner, Somerville Storage Partners, seek a Special Permit under SZO §7.11.15.3 and SZO §14 to establish a wireless communication facility which includes the installation of wireless communications equipment, cabling, and one equipment shelter.

<u>Zoning District/Ward:</u>	IA zone/Ward 2
<u>Zoning Approval Sought:</u>	§7.11.15.3 & §14
<u>Date of Application:</u>	March 21, 2013
<u>Date(s) of Public Hearing:</u>	June 5, 2013
<u>Date of Decision:</u>	July 10, 2013
<u>Vote:</u>	4-0

Appeal #ZBA 2013-27 was opened before the Zoning Board of Appeals at Somerville High School Cafeteria on June 5, 2013. Notice of the Public Hearing was given to persons affected and was published and posted, all as



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required by M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. After two hearings of deliberation, the Zoning Board of Appeals took a vote.

DESCRIPTION:

The proposal is for a new wireless facility at 51 McGrath Highway. To accommodate the antennas and associated power they will construct a new penthouse. There will be two roof mounted cable trays. The antennas will be mounted in two locations, to the exterior of an existing penthouse on the Southwest corner and on the backside of a stealth structure matching the other penthouse in dimension on the Northwest corner. There will be new natural gas pipes on the West and East elevation.

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."

The Applicant seeks a Special Permit under §7.11.15.3 of the SZO, which 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."

Staff finds that minimal harm would be imposed upon the health, safety, and welfare of the surrounding neighborhood. Bell Atlantic Mobile of Massachusetts Corp, Ltd/Verizon Wireless 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 roughly 44 feet in height with three stories and a penthouse that extends above the center of the roof. Four antennas will be mounted to the exterior of an existing penthouse. The remaining 8 will be mounted on the backside of a stealth wall, matching the existing penthouse on the Northwest corner. To minimize visibility, all antennas mounted on the exterior of the existing penthouse will be painted to match. This building is one of the tallest in the area.
- b. *Proximity of facility to residential structures and residential zoning districts:* The only residential property near the site is the Brickbottom Artist Lofts. At the closest point, they are 220 feet away. There is no direct connection between the two sites because of the train tracks. The Brickbottom Artist Lofts are in an Industrial zone. The nearest residential district is the RB zone on the other side of Twin City Plaza.
- c. *Nature of uses on adjacent and nearby properties:* The site is located in an IA district and surrounded by other business uses with the exception of Brickbottom Artists Lofts. Twin City Plaza, Cambridge Reprographics, and the adjacent data center should not be disrupted.
- d. *Surrounding topography and prominence of proposed facility:* There is little typography change around the site. The property is seen primarily from the elevated portion of McGrath Highway. The existing storage



facility with added wireless capability is appropriate for the industrial area. The exposed antennas will match the existing penthouse.

- e. *Surrounding tree cover and foliage:* Tree cover would not be an effective method for shielding this wireless facility; however, there is also no anticipated interference with regard to foliage.
- 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 proposed penthouse, stealth wall, and existing penthouse are visible from several vantage points, the proposal includes ~~painting existing~~ panel antennas painted to match the penthouse, which will reduce their visibility by the public.
- g. *Location of tower, considering more suitable locations:* Verizon Wireless was encouraged by Planning Staff to contact the adjacent property owner at 35 McGrath Highway which is the only taller building nearby. The property owner was not interested.
- h. *Proposed ingress and egress:* Ingress and egress to the site will continue to be through the existing curb cut on McGrath Highway before the ramp up to the elevated portion. The rooftop is accessible from the penthouse.
- i. *Distance from existing facilities:* There are no Verizon Wireless facilities in the immediate area, which is illustrated by the map included with the application material.
- j. *Availability of suitable existing towers, poles, other structures, or alternative technologies, as discussed in Section 14.5.2:* Verizon Wireless has sought out other locations to address the coverage gap in the area. There are no existing sites that can accommodate this gap. This location is suitable in height to address the gaps in the area.

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 Staff 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 district, which is, "to establish and preserve areas for industrial and related uses which are not incompatible with commercial uses; uses which are most appropriately located as neighbors of industrial uses including living and studio space for artists; and uses which are necessary to service the immediate needs of industrial establishments in those areas, and accessory uses to industrial uses such as day care centers, cafeterias, health facilities, and the like."

Furthermore, the Staff 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;*
- 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."

Staff finds the project and the way the equipment is designed to be compatible with the surrounding area and land uses. Eight of the 12 antennas will be hidden from view while 4 will be ~~in canisters~~ panel antennas painted to match the existing penthouse. The penthouse will match the existing penthouse. Photo simulations, taken from a variety of locations within the immediate neighborhood, all indicate a 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.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Josh Safdie and Brandy Brooks with Danielle Evans, Elaine Severino and Richard Rossetti absent. Upon making the above findings, Susan Fontano made a motion to approve the request for a Special Permit. Brandy Brooks seconded the motion. Wherefore the Zoning Board of Appeals voted **4-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is for a Special Permit under SZO §7.11.15.3 and SZO §14 to establish a wireless communication facility which includes the installation of wireless communications equipment, cabling, and one equipment shelter. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/PIng.									
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>(March 21, 2013)</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>May 22, 2013</td> <td>Plans submitted to OSPCD (T-1 Title Sheet, Z-1 500’ Radius Plan, Z-2 Roof Plan, Z-3 West and Partial East Elevation, Z-4 South Elevation)</td> </tr> <tr> <td>(May 28, 2013)</td> <td>Photograph simulations submitted to OSPCD (Cover, Photo Key, Existing & Proposed Views for the following: Looking west on McGrath, View looking east on McGrath, View looking north on McGrath, View looking north from Rufo Road, View looking South from Inner Belt Road, View looking east from Linwood Street, View looking east from Brickbottom Driveway)</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	(March 21, 2013)	Initial application submitted to the City Clerk’s Office	May 22, 2013	Plans submitted to OSPCD (T-1 Title Sheet, Z-1 500’ Radius Plan, Z-2 Roof Plan, Z-3 West and Partial East Elevation, Z-4 South Elevation)	(May 28, 2013)	Photograph simulations submitted to OSPCD (Cover, Photo Key, Existing & Proposed Views for the following: Looking west on McGrath, View looking east on McGrath, View looking north on McGrath, View looking north from Rufo Road, View looking South from Inner Belt Road, View looking east from Linwood Street, View looking east from Brickbottom Driveway)
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Any changes to the approved plans, photo simulations, and/or elevations that are not <i>de minimis</i> must receive SPGA approval.												
2	The Applicant or Owner shall meet the Fire Prevention Bureau’s requirements.	CO	FP									



3	<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>	Continuous	ISD	
4	<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>	Continuous	Health Dept.	
5	<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 within ninety (90) days of notice from the City of Somerville informing the owner of such abandonment.</p>	Continuous	ISD	
6	<p>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.</p>	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 penthouses and panel antennas will be painted to match.	Final Sign Off	Plng.	
9	The natural gas pipelines on the East and West elevations will be painted to match the brick.	Final Sign Off	Plng.	
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:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Josh Safdie (Alt.)
Brandy Brooks (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 _____

