



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

PLANNING DIVISION

ZONING BOARD OF APPEALS MEMBERS

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JOSH SAFDIE (ALT.)

Case #: ZBA # 2010-69
Site: 15 Warren Avenue
Date of Decision: April 20, 2011
Decision: *Petition Approved with Conditions*
Date Filed with City Clerk: April 29, 2011

ZBA DECISION

Applicant Name:	Clear Wireless, LLC
Applicant Address:	Prince Lobel, 100 Cambridge Street, Suite 2200, Boston, MA 02114
Property Owner Name:	Somerville Housing Authority
Property Owner Address:	93 Highland Avenue, Somerville, MA 02143
Agent Name:	Jason Ellis, Esq.
Agent Address:	Prince Lobel, 100 Cambridge Street, Suite 2200, Boston, MA 02114

Legal Notice: Applicant Clear Wireless, LLC, and Owner, Somerville Housing Authority Seek a Special Permit under SZO §4.4.1 & §14; and seeks a Variance under §7.11.15.3 to install three (3) panel antennas, façade mount four (4) two-foot wireless backhaul dish antennas, and add one GPS antenna on the roof of the structure along with associated equipment and cabling.

<u>Zoning District/Ward:</u>	RA zone/Ward 3
<u>Zoning Approval Sought:</u>	§4.4.1, §14 & §7.11.15.3
<u>Date of Application:</u>	October 25, 2010
<u>Date(s) of Public Hearing:</u>	12/1, 12/15/10, 1/5, 1/19, 2/2, 2/16, 3/2, 3/16, 4/6 & 4/20/11
<u>Date of Decision:</u>	April 20, 2011
<u>Vote:</u>	5-0

Appeal #ZBA 2010-69 was opened before the Zoning Board of Appeals at Somerville City Hall on December 1, 2010. 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 is proposing three (3) panel antennas, to façade mount four (4) two-foot wireless backhaul dish antennas, and to add one GPS antenna on the roof of the structure along with associated equipment and cabling. Each panel antenna identified on the plan includes two panels per sector for a total of size panels with RRH mounted below the panels. Four small backhaul dishes are also included. The Applicant is proposing equipment that will be façade mounted on the penthouse, and the antennas are painted to match the penthouse behind. The dishes are also mounted below the roof of the penthouse, while the GPS antenna will be above the penthouse height. Associated equipment will be located on the roof next to the penthouse. A narrow cable tray sits atop the penthouse.

FINDINGS FOR SPECIAL PERMIT (SZO §7.11.15.3):

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 Staff has requested additional photo-simulations that the Applicant has agreed to provide. The Staff is interested in understanding the design impacts of the project on views from Prospect Hill (above the proposed development site). The Applicant is working to provide this information.
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."

Guidelines in 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 proposed new antennas are flush mounted on the penthouse.

The Board finds that minimal harm would be imposed upon the health, safety and welfare of the surrounding neighborhood. The Applicant 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 100 feet from ground level. This building is much taller than its surroundings and is also located partway up Prospect Hill, adding additional height to the location. The proposed antennas are on a penthouse that is above the main roofline, but they will not increase the height of the building.
- b) *Proximity of facility to residential structures and residential zoning districts:* The building at 15 Warren Avenue is a residential structure in an RA district. Other residential structures are nearby including the properties surrounding this location. This equipment would have a limited impact on the surrounding residential structures, as it is designed not to be significantly visible from adjacent residential homes. See variance criteria below for more information about this issue.
- c) *Nature of uses on adjacent and nearby properties:* The site is up Warren Avenue from Union Square, in the Prospect Hill area. The structure is a large multi-family development operated by



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the housing authority in a neighborhood that is surrounded by neighborhood residential housing. The adjacent residents would have limited impacts from the proposed activity, and the proposed project is designed to minimize visual impacts.

- d) *Surrounding topography and prominence of proposed facility:* The building is one of 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 the flush-mounted design and the proposed color (matching the penthouse color) would limit the visual impact.
- 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:* Staff finds the project and the way the equipment is designed to be compatible with the surrounding area and land uses.

The proposed installation will be mounted on the tall penthouse and painted to match. This will limit the visibility of the installation from a distance, while the penthouse cannot be seen from close up. Cabling will be run in narrow trays, 12 inches high on a four inch base, and will not be visible. Backhaul dishes are 15.5 and 26 inches in diameter, a small size for this location.

- 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 a tall structure in a neighborhood with minimal tall structures. The site was reviewed by a peer reviewer who concluded that more than one facility would almost certainly be required, unless this property will be utilized, and that the height of this individual facility will close a significant coverage gap without the need to construction (far more detrimental) support structures or towers.
- h) *Proposed ingress and egress:* There is existing access to the roof and equipment on the roof via one penthouse stairwell on the building.
- i) *Distance from existing facilities:* The Applicant has identified other proposed clearwire facilities. The peer reviewer indicated that this location is reasonable to cover a gap in coverage with these other sites.
- 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 this system is an existing tall building, and the Applicant has suggested and peer reviewer agreed that this site addresses the gap in proposed coverage by Clearwire.

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 is consistent with the underlying regulations of the RA zoning district, but may only be allowed if the provisions of federal telecommunications regulations require it to be located in this district (see variance findings below).



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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; 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 Applicant submitted photo simulations showing minimal impact of this installation, especially as it is seen from Union Square and Prospect Hill. Close up analysis establishes that the installation would be visible, but that painting the flush mounted antennas limits their visibility significantly from a distance.

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



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FINDINGS FOR VARIANCE (SZO §5.5.3):

In order to grant a variance for lot area per dwelling unit (§8.5.B) requirements the SPGA must make certain findings and determinations as outlined in §5.5.3 of the SZO.

1. There are “special circumstances relating to soil conditions, shape or topography of land or structures which especially affect such land or structures but not affecting generally the zoning district in which it is located, causing substantial hardship, financial or otherwise.”

Applicant justification: The Property is a large parcel that abuts a commercial mixed use district. The surrounding area is comprised of residential and commercial properties however there are no other feasible locations on which to locate a wireless telecommunications facility. Existing structures and buildings in the area are insufficient in height to allow the Applicant to operate thereon and provide adequate coverage to this significant gap in its network. The Property provides a unique opportunity – given the character and size of the existing Building – to allow the Applicant to install the WCF on an existing building, thereby minimizing any adverse visual impacts to the surrounding area. Accordingly, the proposed design conforms to the existing characteristics of the Property by façade mounting the antennas to the existing penthouse and painting them to match. The WCF however, requires relief for this use in the Residential A zoning district under the Ordinance.

Radio frequency engineers determine the placement of network points-of-presence using computer engineering models that simultaneously evaluate area topography and population patterns to identify specific geographic areas to be serviced by each antenna facility in the network. As a result of this modeling, combined with actual coverage data provided by existing "on air" facilities, the Applicant's radio frequency engineers have identified a limited geographic area as a necessary location for a communications facility to remedy an existing gap in reliable service coverage in the general vicinity of the Property. Without the requested relief, there would remain a substantial "gap" in reliable service coverage in the Applicant's network. Radio frequency coverage maps and an Affidavit of Radio Frequency Expert, provided by the Applicant and attached hereto, confirm that a wireless communications facility located at the Property is required to remedy the existing gap in the Applicant's network coverage in the area. The requested height has been determined by the Applicant's engineers to be the minimum height necessary to connect coverage from the proposed WCF with coverage from adjacent cell sites in the Applicant's network (i.e., to remedy the existing "gap" in service and to effect reliable handoffs between adjacent cell sites as a subscriber travels through the area). Further, in the context of a utility service where the critical criteria in the development of each facility is its ability to integrate with a network of surrounding sites and, subsequently, for each cluster of sites to function within a regional/national network, there is an underlying premise that each site chosen by the Applicant for a facility possesses a unique location and topographical characteristics.

Finally, as noted in *Nextel Communications of the Mid-Atlantic, Inc. v. Town of Wayland*, 231 F.Supp. 2d 396, 406-407 (D. Mass. 2002), the “need for closing a significant gap in coverage, in order to avoid an effective prohibition of wireless services, constitutes another unique circumstance when a zoning variance is required.” The existing structures located near the Property are not at a height sufficient to allow the Applicant to provide adequate coverage to this significant gap in its network and there is no property available to the Applicant that would not require the requested relief. Consequently, the proposal to install the WCF is required. Given the height of the Building, as well as the proposed design of the WCF, the proposed installation will have a minimal visual impact to the surrounding neighborhood while achieving the Applicant's requisite coverage.

ZBA Finding: While the legal analysis by the Applicant is sound, making this finding relies upon the statement by the Applicant's radio frequency (RF) engineer that the “need for closing a significant gap in coverage, in order to avoid an effective prohibition of wireless services, constitutes (a) unique circumstance when a zoning variance is required.” Staff recommended that a peer review by an independent RF engineer to confirm this determination by the Applicant. Included in the record is a letter from Mark F. Hutchins, Consulting RF Engineer. Mark Hutchins was chosen by City Staff to conduct a peer review at the expense of the Applicant. The result of this report indicates that the proposed neighboring facilities will “still leave a significant gap in its coverage along Somerville Avenue, including a sizeable area centered at Union Square” and that this facility “will substantially



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close the gap and provide necessary coverage overlap with neighboring facilities, without the need to construct new support structures or towers.” Therefore, the ZBA finds that this finding has been met.

2. “The variance requested is the minimum variance that will grant reasonable relief to the owner, and is necessary for a reasonable use of the building or land.”

Applicant justification: The intent of the TCA enacted by the U.S. Congress was to institute a framework to promote competition and innovation within the telecommunications industry. Under its license from the FCC, the Applicant is obligated to provide a reliable "product" (i.e. wireless communications service) to the population in the greater Boston region, which includes the City of Somerville. Likewise, consumer expectations for increasingly robust and reliable service requires competing service providers (such as the Applicant's, operating under the brand name Clearwire) to identify and remedy existing gaps in reliable network coverage, or gaps that result from increasing subscriber voice and data traffic beyond the limits of existing network infrastructure. A carrier's failure to remedy network gaps in a timely fashion can result in a significant loss of subscribers to competing telecommunications carriers. As demonstrated in the Affidavit of Radio Frequency Expert and Service Coverage maps provided by the Applicant and attached hereto, the proposed WCF and corresponding requested relief are necessary to remedy a gap in reliable service coverage within the Applicant's existing network infrastructure.

Given the location of the significant gap in coverage, and the location of the existing site to which the proposed WCF must connect, both depicted on the coverage maps submitted herewith, the proposed wireless communications services cannot be provided without requiring the requested relief. The Applicant has investigated alternative sites in and around the defined geographic area within which its engineers determined that a facility must be located to fill the gap in service coverage and to function effectively within the Applicant's network of existing and planned facilities. No existing structure or property near the vicinity of the proposed WCF is feasible to accommodate the Applicant's network requirements.

Accordingly, a literal enforcement of the provisions of the Ordinance would prevent the Applicant from eliminating an existing gap in reliable service coverage, resulting in a potential loss of subscribers and the inability to effectively compete for subscribers with FCC licensed competitors in the market, contrary to the intent of the Ordinance and the U.S. Congress in enacting the TCA.

ZBA Finding: While the legal analysis by the Applicant is sound, making this finding relies upon the statement by the Applicant's radio frequency (RF) engineer that the “need for closing a significant gap in coverage, in order to avoid an effective prohibition of wireless services, constitutes (a) unique circumstance when a zoning variance is required.” See finding #1 for comments from the independent RF Engineer. The ZBA finds that this finding has been met.

3. “The granting of the variance would be in harmony with the general purpose and intent of this Ordinance and would not be injurious to the neighborhood or otherwise detrimental to the public welfare.”

Applicant justification: Although the use is prohibited under the Table of Uses, pursuant to §7.11.15.3 of the Ordinance the Applicant provides that the WCF is in harmony with the intent of the Ordinance. As §6.1.1 of the Ordinance provides, Residential A zoning districts are “to establish and preserve quiet neighborhoods of one- and two-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts.” The Applicant's proposed installation satisfies this requirement of the Ordinance. As explained in more detail below, the proposed WCF will produce no objectionable noise, glare, dust, smoke, fumes, odors, or effluent, and will not have any impact on traffic or circulation. Further, the proposed WCF is compatible and convenient to the inhabitants of the City by enhancing telecommunication services within the City. Accordingly, relief may be granted by the Board without substantial detriment to the public good or nullifying or substantially derogating from the intent or purpose of the Ordinance.



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The WCF produces no odors, smoke, dust, glare or waste. Visits to and from the WCF will be limited to one or two per month by maintenance personnel so it will not produce large amounts of traffic. Accordingly, the requested relief may be granted without substantial detriment to the public good. In fact, the WCF will provide a benefit to the community in the form of improved communications infrastructure. As a substantial part of the intent and purpose of the Wireless Communication Ordinance is to minimize potential adverse impacts on adjacent properties and residential neighborhoods, the Applicant respectfully suggests that its proposed WCF is consistent with the intent and purpose of the Ordinance. The Applicant's proposed structure is camouflaged, unmanned and will generate approximately two vehicle trips per month for routine maintenance. The WCF is serviced by electricity and no back-up generator will be required. The proposed use will discharge no wastewater on the site nor will it involve on-site storage or disposal of toxic or hazardous waste. The Applicant's WCF will be a benefit to the community by allowing for more competitive wireless telecommunications services to the residents and businesses of the City of Somerville. In addition, granting the requested relief will not cause substantial detriment to the public good or impair the intent or purpose of the Ordinance because:

1. The proposed use complies with the Ordinance to the extent reasonably feasible and will reduce the number of new structures ultimately needed to provide wireless communication services in the surrounding area by the use of an existing Building.
2. The proposed location is reasonably adaptable to the proposed wireless communications use.
3. The proposed WCF is designed to be at the minimum height necessary to provide adequate coverage to the area and keep potential visual impacts to a minimum.
4. The WCF will comply in all respects with radio frequency emission standards established by the Federal Communications Commission.
5. The proposed use is passive in nature, requires no employees on the premises, will not generate large amounts of traffic, and will not burden municipal systems.
6. The proposed WCF is compatible and convenient to the inhabitants of the city by enhancing telecommunications services within the City of Somerville.
7. The proposed WCF will lessen the danger from fire and natural disasters by providing emergency communications in the event of such fires and natural disasters.
8. The proposed WCF will involve no overcrowding of land or undue concentration of population because it is an unmanned installation.
9. The proposed WCF will preserve and increase the amenities of the City by enhancing telecommunications services.
10. The proposed WCF will not adversely affect water supplies as it neither uses water nor produces waste.
11. The proposed WCF will facilitate the adequate provision of transportation by improving mobile telecommunications for business, personal, and emergency uses.
12. The proposed WCF will involve no adverse effects on drainage, schools, parks, or open space.
13. The proposed WCF will involve no excessive noise.
14. The proposed WCF will not adversely impact upon historic sites.



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15. The proposed WCF will be an appropriate use of the Property within the City of Somerville.

ZBA Finding: The Board finds that, per the proposed photo simulations and the accompanying information, this installation meets this finding. But, any future installations that propose expanding this facility beyond that approved by this variance will need to establish that they remain in harmony with the purpose of the ordinance, and its relevant section. The backhaul antennas are less than 2.5 feet in diameter, the cable tray will be 16 inches high and the flush mounted antennas will be painted to match the building.

DECISION:

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Scott Darling and Elaine Severino with Herbert Foster and Josh Safdie absent. Upon making the above findings, Richard Rossetti 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 for a special permit. Upon making the above findings, Richard Rossetti made a motion to approve the request for a variance. Scott Darling seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request for a variance. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	<p>Approval is for the installation of a wireless communications equipment under SZO §7.11.15.3 and SZO §14 consisting of the replacement of two existing antennas, the installation of one new antenna, and 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>October 21, 2010</td> <td>Initial application, submitted to the City Clerk's Office</td> </tr> <tr> <td>November 29, 2010</td> <td>Updated plans and elevations (Sheets T1, GN1, C1, A1-A7, S1, E1 and E2)</td> </tr> <tr> <td>November 30, 2010</td> <td>Photo Simulations</td> </tr> </tbody> </table> <p>Any changes to the approved site plan, photograph simulations, and/or elevations that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	October 21, 2010	Initial application, submitted to the City Clerk's Office	November 29, 2010	Updated plans and elevations (Sheets T1, GN1, C1, A1-A7, S1, E1 and E2)	November 30, 2010	Photo Simulations	BP	Png.	
Date (Stamp Date)	Submission											
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November 29, 2010	Updated plans and elevations (Sheets T1, GN1, C1, A1-A7, S1, E1 and E2)											
November 30, 2010	Photo Simulations											
2	All Cingular antennas shall be painted to match the color of the antennae frame, penthouse, or equipment shelters to which they are attached.	CO	Png.									



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 the 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. 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 property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard.	Final inspection	DPW	
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:

Orsola Susan Fontano, *Acting Chairman*
Richard Rossetti, *Acting Clerk*
T.F. Scott Darling, III, Esq.
Danielle Evans
Elaine Severino (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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