



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

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BRANDY BROOKS (ALT.)

Case #: ZBA 2014-43
Site: 15 Weston Avenue
Date of Decision: August 6, 2014
Decision: Petition Approved with Conditions
Date Filed with City Clerk: August 18, 2014

ZBA DECISION

Applicant Name:	Bell Atlantic Mobile of Massachusetts Corp, Ltd. d/b/a Verizon Wireless
Applicant Address:	40 Friberg Parkway, Westboro, MA 01581
Property Owner Name:	Somerville Housing Authority
Property Owner Address:	30 Memorial Road, Somerville, MA 02145
Agent Name:	Daniel D. Klasnick, Esq.
Agent Address:	16 Olde Farms Road, Boxford, MA 01921

Legal Notice: Applicant, Bell Atlantic Mobile of Massachusetts Corporation, Ltd. d/b/a Verizon Wireless, and Owner, Somerville Housing Authority, 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. A Variance is also sought under SZO §14.3.4. due to the chimney enclosure setbacks.

<u>Zoning District/Ward:</u>	RB zone/Ward 7
<u>Zoning Approval Sought:</u>	§7.11.15.3, §14 & §14.3.4
<u>Date of Application:</u>	May 14, 2014
<u>Date(s) of Public Hearing:</u>	7/16 & 8/6/14
<u>Date of Decision:</u>	August 6, 2014
<u>Vote:</u>	4-0



Appeal #ZBA 2014-43 was opened before the Zoning Board of Appeals at Somerville City Hall on July 16, 2014. 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 side mount- 10 panel antennas to the facade of the building, painted to match, all with remote radio heads. The antennas will be mounted within four fiberglass enclosures in three sectors, painted to match. Two enclosures (12' wide x 2' deep x 7' high) will contain four antennas each and be mounted near the corners on the eastern and western side elevations. Two additional enclosures (4' wide x 2' deep x 7' high) will be located on the northeast façade and contain once antenna each. The proposal also requests to construct a 252 square foot equipment room in the existing basement of the building. Last, the Applicant proposes to install a natural gas emergency generator with two A/C condensers located on a concrete pad at the side of the building, behind the stockade fence, which requires a cable tray down the western facade of the building. This generator will be connected to an existing underground 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."

A Variance is also sought under SZO §14.3.4. due to the chimney enclosure setbacks. Since the request for a Variance was made, the Applicant has moved forward with the side-mounted enclosure solution; therefore, a Variance is no longer applicable.

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 eight stories (roughly 90 feet) with 3 penthouses that extend above the roofline. This installation would install four antennas on the western side wall within a fiberglass enclosure the same height as the existing parapet, four antennas on the eastern side wall within a fiberglass enclosure the same height as the existing parapet and two antennas on the northwest elevation within two fiberglass enclosures the same height as the existing parapet on the rooftop.



- b. *Proximity of facility to residential structures and residential zoning districts:* The building at 15 Weston Avenue is a residential structure in both Neighborhood Business and Residence B districts. Other residential structures directly abut this property. Metro PCS, Spring and T-Mobile have also 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 near Broadway in Teele Square. Properties that front onto Broadway are either mixed use or commercial and St. James Episcopal Church is located nearby on the corner of Broadway and Clarendon Avenue. Two condominium developments are located adjacent to the subject property along Weston Avenue and the larger surrounding neighborhood is predominantly two- and three-family dwellings. 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 relatively flat and no other buildings of comparable height or prominence are located in the surrounding area. Although the proposed antennae enclosures will be visible from several vantage points, the antennae enclosures will be painted to match the color of the adjacent façade, including a small cornice component, 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 enclosures and radio heads are visible from several vantage points, a condition of this report is that both are painted to match the adjacent façade, including a small cornice component, 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 there is an existing wireless facility at this site and the Somerville Housing Authority is a nonprofit organization that services senior residents.
 - 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 wireless facility for other entities. The nearest Verizon facility is in Arlington.
 - 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 and will be within a fiberglass enclosure.
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 B district, §6.1.2, which is, “To establish and preserve medium density neighborhoods of one-, two- and three-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts.”

The proposal is consistent with the purpose of the Neighborhood Business district, §6.1.4, which is, “To establish and preserve areas for small-scale retail stores, services and offices which are located in close proximity to residential areas and which do not have undesirable impacts on the surrounding neighborhoods.”

The wireless communication facility expansion is consistent with the purposes of both the Neighborhood Business and Residence B districts as the additional 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 near Broadway in Teele Square. Properties that front onto Broadway are either mixed use or commercial and St. James Episcopal Church is located nearby on the corner of Broadway and



Clarendon Avenue. Two condominium developments are located adjacent to the subject property along Weston Avenue and the larger surrounding neighborhood is predominantly two- and three-family dwellings.

There will be few impacts from this proposal. The site is an existing wireless facility. While there is addition equipment being installed within, along the side facades, and vertically down the building, the equipment being installed will be within painted enclosures to match the existing side façade. This building is the most appropriate building in the area because of the height and low 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, Danielle Evans and Elaine Severino. 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 **4-0** 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. A Variance is also sought under SZO §14.3.4. due to the chimney enclosure setbacks. 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>July 28, 2014</td> <td>Photo Sims</td> </tr> <tr> <td>(June 10, 2014) May 12, 2014</td> <td>Coverage Key (Before & After)</td> </tr> <tr> <td>July 23, 2014 (July 28, 2014)</td> <td>Plans submitted to OSPCD Plans submitted to OSPCD (T-1, C-1, A-1, A-2, A-3, & A-4)</td> </tr> </tbody> </table>	Date (Stamp Date)	Submission	(May 14, 2014)	Initial application submitted to the City Clerk’s Office	July 28, 2014	Photo Sims	(June 10, 2014) May 12, 2014	Coverage Key (Before & After)	July 23, 2014 (July 28, 2014)	Plans submitted to OSPCD Plans submitted to OSPCD (T-1, C-1, A-1, A-2, A-3, & A-4)	BP/CO	ISD/PIng.	
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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	<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.	Continuous	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 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,	Final Inspection	DPW	

	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.			
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 façade of the building, including the cornice component.	Final Sign Off	Plng.	
9	The Applicant shall screen the generator with fencing or vegetation.	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*
Richard Rossetti
Elaine Severino

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 _____

