



**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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T. F. SCOTT DARLING, III, ESQ.  
DANIELLE EVANS  
ELAINE SEVERINO (ALT.)  
JOSH SAFDIE (ALT.)

**Case #: ZBA # 2011-85**  
**Site: 15 Weston Avenue**  
**Date of Decision: April 4, 2012**  
**Decision: *Petition Approved with Conditions***  
**Date Filed with City Clerk: April 6, 2012**

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**ZBA DECISION**

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|                                |  |
|--------------------------------|--|
| <b>Applicant Name:</b>         | Sprint   |
| <b>Applicant Address:</b>      | 9 Crosby Drive, Bedford, MA 01730                                      |
| <b>Property Owner Name:</b>    | Somerville Housing Authority   |
| <b>Property Owner Address:</b> | 30 Memorial Road, Somerville, MA 02145                                 |
| <b>Agent Name:</b>             | Richard Paciuto  |
| <b>Agent Address:</b>          | HPC Development, LLC, 400 Trade Center, Suite 5900<br>Woburn, MA 01801 |

Legal Notice: Applicant Sprint and Owner Somerville Housing Authority, seek Special Permit Approval under SZO §7.11.15.3 and SZO §14 in order to replace, relocate and install wireless communications equipment. NB/RB zone. Ward 7.

|                                   |                   |
|-----------------------------------|-------------------|
| <u>Zoning District/Ward:</u>      | NB/RB zone/Ward 7 |
| <u>Zoning Approval Sought:</u>    | §7.11.15.3 & §14  |
| <u>Date of Application:</u>       | October 31, 2011  |
| <u>Date(s) of Public Hearing:</u> | April 4, 2012     |
| <u>Date of Decision:</u>          | April 4, 2012     |
| <u>Vote:</u>                      | 5-0               |

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Appeal #ZBA 2011-85 was opened before the Zoning Board of Appeals at Somerville City Hall on April 4, 2012. 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, Sprint, is proposing to make the following changes to the existing wireless equipment. Three existing panel antennas will be swapped with new models that are similar size and appearance. They measure 7 inches in length, 8 inches in width and 72 inches in height.

Three new panel antennas will be installed in close proximity to existing panel antennas. The new antennas will be similar in size and appearance to the existing and will be 7 inches in length by 11.8 inches in width by 72 inches in height. The panel antennas will all be side-mounted on the existing penthouses in groups of three on the three penthouses. The antennas on the middle penthouse will be 2 inches taller than the height of the penthouse and the antennas on the other penthouses will be below the height of the penthouse roofline.

Two of the existing equipment cabinets (BTS cabinet and battery cabinet) will be replaced with new models. The BTS will be 32 inches in length, 35.5 inches in width and 72 inches in height and the battery cabinet will be 30 inches in length, 31 inches in width and 60 inches in height

Nine new remote radio heads, 3 sectors of 3 antennas, will be installed below the panel antennas. They will be placed below the height of the parapet so that they will not be visible.

Finally, the proposal includes swapping out the GPS antenna with a new model that is 3.2 inches in diameter by 5 inches in height.

**FINDINGS FOR SPECIAL PERMIT (SZO §7.11.15.3 & §14):**

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §5.1.4 of the SZO. This section of the report goes through §5.1.4 in detail.

1. Information Supplied: The Board finds that the information provided by the Applicant conforms to the requirements of §5.1.2 of the SZO and allows for a comprehensive analysis of the project with respect to the required Special Permits.
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 wireless use under §7.11.15.3 of the SZO requires the applicant to follow guidelines and procedures set forth in Article 14 for the, "regulation of wireless telecommunications facilities so as to allow and encourage uses in the City with minimal harm to the public health, safety and general welfare."

The Board finds that minimal harm would be imposed upon the health, safety and welfare of the surrounding neighborhood. Sprint 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 existing building has a 70' high roof top with a 3' parapet, which creates a 73' high roofline. The central penthouse extends 16 ft above the roof, 13 ft above the roofline of the building. Plans show antennas at a height of 86 ft, 3 ft above the 10 ft guideline in the SZO. Although the antennas are slightly higher than the guideline, they align with the existing antennas and would look out of place if they were shifted downward.
- 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 about this property. The Board finds that several



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companies currently have wireless communications equipment on this structure and additional equipment would have limited impact on the surrounding residential structures.

- c) *Nature of uses on adjacent and nearby properties:* Surrounding properties are mixed use in nature and, the Board finds, compatible with the proposed use.
- d) *Surrounding topography and prominence of proposed facility:* The building is the tallest in the area. The surrounding area is relatively flat and there are no other buildings of comparable height or prominence in the surrounding area. Though the proposed rooftop antennas are visible from several vantage points, the proposal to match them to the color of the building will reduce their prominence from the public way
- e) *Surrounding tree cover and foliage:* The surrounding area includes a park and has several street trees that are significantly lower in height than the proposed antennas and will be unaffected by this proposal.
- f) *Design of tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness, as specified in Section 14.3:* Guidelines of Article 14 of the SZO state that antennas should not be located more than 10 feet above the roofline, façade mounted antennas are encouraged and antennas should be painted to match the surrounding materials and colors. The antennas will be façade mounted and will be in line with the existing façade mounted antennas. The antennas will be painted to match the building.
- g) *Location of tower, with particular reference to the existence of more suitable locations, as specified in Section 14.3:* The guidelines in Article 14 state that service providers should co-locate and/or locate on facilities owned or managed by the City of Somerville, whenever possible. The proposal complies with the intent of this guideline as Sprint has existing equipment at this site and the Somerville Housing Authority is a nonprofit organization that provides a service to seniors.
- h) *Proposed ingress and egress:* The existing stairwell and penthouse will be utilized to access the rooftop.
- i) *Distance from existing facilities:* The site is currently operating as a Sprint wireless facility and the proposed changes will allow for an update in equipment.
- 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 the Applicant demonstrates that the proposed antennas will not cause interference with existing antennas on the site and that alternative technologies are unsuitable.* This site was chosen due to the existing use of the property for wireless communications use, the city's preference for use of city-owned properties for wireless communications sites, and the location and overall height of the property, which provides the opportunity for reasonable service coverage in this area of Somerville.

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 purposes set forth in the purposes of the SZO, specifically "to facilitate the adequate provisions of...other public requirements; to...increase the amenities of the municipality" (SZO §1.2). The wireless equipment is also consistent with the purpose of the Neighborhood Business and Residence B district in providing service to the local residents and businesses.



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The Board finds that the proposal as conditioned is consistent with the purposes set forth in Article 14 of the Zoning Ordinance as noted below:

- 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; and*
- i) *Avoid potential damage to adjacent properties from tower and antenna failure through sound engineering and careful siting of structures.*

4. Site and Area Compatibility: The Applicant has to ensure that the project "(i)s designed in a manner that is compatible with the characteristics of the built and unbuilt surrounding area, including land uses."

The Board finds the project to be compatible with the surrounding area and land uses. The proposed location of the antennas on the penthouse façades as conditioned would not have a negative affect on the surrounding neighborhood or detract from the appearance of the building due to the height of the building and the setback of the central penthouse and the proposed equipment cabinets. The cabinets will be at a minimum 23 ft from the building's edge and typically not seen from the street. On the side penthouses, two of the antennas that would be visible from the street are replacing existing antennas and any difference in appearance would be minimal. The new antennas will be located between existing façade mounted antennas at the same height such that the new equipment will be consistent with the existing equipment.

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 facility will have to comply with the applicable FCC requirements relating to radio frequency emissions and will comply with all applicable requirements of the building code. The equipment will not generate glare, light, smoke, vibrations dust or noxious materials. Standard conditions direct compliance with Noise Control Ordinance and FCC Guidelines for Human Exposure to Electromagnetic Fields, and require regular reporting.



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**DECISION:**

Present and sitting were Members Herbert Foster, Richard Rossetti, Danielle Evans, Scott Darling and Josh Safdie with Susan Fontano 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. In addition the following conditions were attached:

| #                                     | Condition  | Timeframe for Compliance | Verified (initial) | Notes                                 |  |              |  |                |                   |       |       |  |
|---------------------------------------|--|--------------------------|--------------------|---------------------------------------|--|--------------|--|----------------|-------------------|-------|-------|--|
| 1                                     | <p>Approval is for the installation of 3 panel antennas and 9 RRH units façade mounted on the rooftop penthouses, the replacement of 3 other panel antennas, a GPS antenna and 2 equipment cabinets, and associated 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>Oct 31, 2011<br/>Complete Mar 16, 2012</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>Oct 26, 2011</td> <td>Plans submitted to OSPCD (Plot Plan, A-1 rooftop plan &amp; equipment platform, A-2 Elevations, A-3 Antenna Scenario, A-4 Equipment Details)</td> </tr> <tr> <td>(Mar 29, 2011)</td> <td>Photo simulations</td> </tr> </tbody> </table> <p>Any changes to the approved plans that are not <i>de minimis</i> must receive SPGA approval.</p> | Date (Stamp Date)        | Submission         | Oct 31, 2011<br>Complete Mar 16, 2012 | Initial application submitted to the City Clerk's Office | Oct 26, 2011 | Plans submitted to OSPCD (Plot Plan, A-1 rooftop plan & equipment platform, A-2 Elevations, A-3 Antenna Scenario, A-4 Equipment Details) | (Mar 29, 2011) | Photo simulations | BP/CO | Plng. |  |
| Date (Stamp Date)                     | Submission   |                          |                    |                                       |  |              |  |                |                   |       |       |  |
| Oct 31, 2011<br>Complete Mar 16, 2012 | Initial application submitted to the City Clerk's Office   |                          |                    |                                       |  |              |  |                |                   |       |       |  |
| Oct 26, 2011                          | Plans submitted to OSPCD (Plot Plan, A-1 rooftop plan & equipment platform, A-2 Elevations, A-3 Antenna Scenario, A-4 Equipment Details)   |                          |                    |                                       |  |              |  |                |                   |       |       |  |
| (Mar 29, 2011)                        | Photo simulations  |                          |                    |                                       |  |              |  |                |                   |       |       |  |
| 2                                     | <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 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.</p>   | Continuous               | ISD                |                                       |  |              |  |                |                   |       |       |  |



|    |   |                 |            |  |
|----|---|-----------------|------------|--|
| 3  | <i>Compliance with Federal Communications Commission Guidelines for Human Exposure to Electromagnetic Fields.</i> To ensure compliance with the standards established by the Federal Communications Commission Office of Engineering and Technology (“FCC”) in OET Bulletin 65 as adopted by Massachusetts Department of Public Health under 105 CMR 122.021, the Applicant shall perform measurements, within two (2) months of the date that the Applicant’s wireless telecommunications facility commences operation and at intervals of twelve (12) months thereafter, to establish that the Applicant’s wireless telecommunications facility complies and continues to comply with the FCC guidelines and applicable state regulations for human exposure to radio frequency electromagnetic fields. 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      | BOH        |  |
| 4  | Any antenna that is not operated continuously for a period of twelve (12) months shall be considered abandoned, and the owner of such antenna shall remove the same within ninety (90) days of notice from the City of Somerville informing the owner of such abandonment.  | Continuous      | ISD        |  |
| 5  | The applicant shall remove any of that carrier's unused or non-operating wireless equipment prior to installation.  | Building permit | PLNG.      |  |
| 6  | The applicant shall identify and inform Planning Staff of any non-operating wireless equipment from any carrier prior to installation.  | Building permit | PLNG.      |  |
| 7  | The Applicant shall camouflage the new antennas and equipment cabinet by painting them to match the siding upon which it is being mounted. The Applicant shall present the material, in its printed color, to the Planning staff on the site for review and approval.   | Final signoff   | PLNG.      |  |
| 8  | In accordance with the Structural Engineer’s letter from August 15, 2011 the Applicant must supply ISD with documentation that the existing structural steel platform is sufficient to hold the proposed cabinets. If the platform is not sufficient and a new equipment cabinet location is needed, a revision to the special permit will be required.   | Building permit | ISD / Png. |  |
| 9  | In accordance with the Structural Engineer’s letter from August 15, 2011, if installation of the new mounts for the panel antennas will cause a change to the plans, a revision to the special permit will be required.   | Building permit | ISD / Png. |  |
| 10 | The Applicant shall contact Planning Staff at least five working days in advance of a request for a final sign-off on the building permit to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.   | Final signoff   | PLNG.      |  |



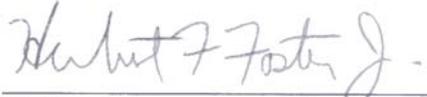
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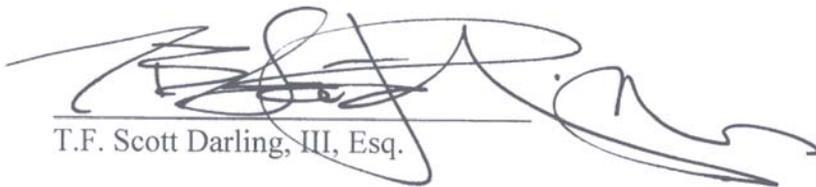


Attest, by the Zoning Board of Appeals:

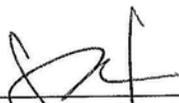
Herbert Foster, *Chairman*  
Richard Rossetti, *Acting Clerk*  
T.F. Scott Darling, III, Esq.  
Danielle Evans  
Josh Safdie (Alt.)

  
\_\_\_\_\_  
Herbert F. Foster, Jr., Chairman

  
\_\_\_\_\_  
Richard Rossetti

  
\_\_\_\_\_  
T.F. Scott Darling, III, Esq.

  
\_\_\_\_\_  
Danielle Evans

  
\_\_\_\_\_  
Josh Safdie (Alt.)

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.



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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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