



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

MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

PLANNING DIVISION

**ZONING BOARD OF APPEALS MEMBERS**

ORSOLA SUSAN FONTANO, CHAIRMAN  
RICHARD ROSSETTI, CLERK  
DANIELLE EVANS  
ELAINE SEVERINO  
JOSH SAFDIE  
ANNE BROCKELMAN, (ALT.)

**Case #: ZBA 2015-58**  
**Site: 701 Broadway**  
**Date of Decision: January 20, 2016**  
**Decision: Petition Approved with Conditions**  
**Date Filed with City Clerk: February 3, 2016**

---

**ZBA DECISION (REVISED)**

---

**Applicant Name:** Bell Atlantic Mobile of Massachusetts, Corp.  
**Applicant Address:** 400 Friberg Parkway, Westboro, MA 01581  
**Property Owner Name:** Ball Square Realty, LLC  
**Property Owner Address:** 47 Marsh Street, Belmont, MA 02478  
**Agent Name:** Daniel D. Klasnick, Esq.  
**Agents Address:** 210 Broadway, Suite #204, Lynnfield, MA 01940

Legal Notice: Applicant, Bell Atlantic Mobile of Massachusetts Corporation, Ltd., d/b/a Verizon Wireless, represented by its agent, Attorney Daniel D. Klasnick, seeks a Special Permit (SZO §7.11.15.3 and SZO §14) for a telecommunications facility and a Variance (SZO §3.2.2.c Section 6 C) to install a wireless communication structure.\*

\*Even though the Variance was noticed, they did not require a Variance in the end.

Zoning District/Ward: NB zone/Ward 5  
Zoning Approval Sought: §7.11.15.3, §14, §3.2.2.c, §6c  
Date of Application: July 30, 2015  
Date(s) of Public Hearing: January 20, 2016  
Date of Decision: January 20, 2016  
Vote: 5-0

---

Appeal #ZBA 2015-58 was opened before the Zoning Board of Appeals at Somerville City Hall on January 20, 2016. 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.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143  
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722  
[www.somervillema.gov](http://www.somervillema.gov)

**DESCRIPTION:**

Construct a faux chimney to house telecommunications antennae, install accessory rooftop equipment (surge arrestors and RRHs) and pipe mount Alpha sector antennas to the wall above the lower roof. The project proposal has been significantly reduced from several faux chimneys to one larger faux chimney and a second smaller chimney housing antennae and associated equipment.

**FINDINGS FOR SPECIAL PERMIT (SZO §5.1 & §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 SZO §7.11.15.3 and SZO §14 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 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. Verizon 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:*** Updated 1/20/2016: The height of the building, to the top of the roof, is approximately 26.3 feet tall. The elevation, to the top of the proposed chimney stack will be approximately 36.3 feet tall, well below the 40' height allowed in the NB district.
- b) ***Proximity of facility to residential structures and residential zoning districts:*** The property is located in a the NB zone and a mixed commercial and residential district of Ball Square. The Applicants stated that they tried to find another location in the area; however, this was the location that allowed them to provide reliable coverage.
- c) ***Nature of uses on adjacent and nearby properties:*** The site is located in a mixed commercial and residential area and the design of the stealth chimneys and accessory equipment have been done in such a way as to have minimal visual impact.
- d) ***Surrounding topography and prominence of proposed facility:*** The building is flat-roofed and is neither the tallest nor lowest in the area.
- e) ***Surrounding tree cover and foliage:*** The trees located near the site are not anticipated to interfere with 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:*** Guidelines of 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 stealth chimneys comply with these guidelines



- 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. Verizon was not able to find a location that satisfied these requirements and meet their coverage area requirements.
- h) *Proposed ingress and egress:* Existing rooftop access will be used to reach the equipment.
- i) *Distance from existing facilities:* See accompanying maps and photos.
- 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 needs. There are no other locations in the area that meet the Applicant's proposed coverage requirements as much as this building does.

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 of the SZO, specifically "to facilitate the adequate provisions of...other public requirements; to...increase the amenities of the municipality" (SZO §1.2), and with the specific purposes of Article 14 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 (this installation will be in a mixed commercial and residential area).*
- 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 equipment is designed to be compatible with the surrounding area and land uses. As noted in the Project Proposal and Impacts of Proposal sections above.

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.

**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Elaine Severino, Josh Safdie and Anne Brockelman with Danielle Evans absent. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. The Variance was not needed. Elaine Severino 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	Approval is for the installation of a faux chimney and related telecommunications equipment.	BP/CO	Plng.							
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>July 30, 2015</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>December 14, 2015</td> <td>Final plans/photo sims submitted to OSPCD</td> </tr> </tbody> </table>				Date (Stamp Date)	Submission	July 30, 2015	Initial application submitted to the City Clerk's Office	December 14, 2015	Final plans/photo sims submitted to OSPCD
	Date (Stamp Date)				Submission					
July 30, 2015	Initial application submitted to the City Clerk's Office									
December 14, 2015	Final plans/photo sims submitted to OSPCD									
Any changes to the approved plans that Planning Staff determines are not <i>de minimis</i> must receive SPGA approval.										
2	Faux chimney shall, in color and detail, match any existing brick and mortar on the building as closely as possible.	Final Inspection	Plng.							
3	Any accessory equipment, including façade-mounted equipment shall be colored/painted to match the portion of the building on which it is installed.									



4	<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>	CO and annually	ISD / Plng.	
5	<p>Compliance with Federal Communications Commission Guidelines for Human Exposure to Electromagnetic Fields. 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>	Annually	BOH	
6	<p>Setback for Rooftop Installations: All elevator and stairwell penthouses, roof-mounted mechanical equipment (including enclosure, if any) and other similar rooftop installations shall be set back behind a plane inclined at forty-five (45) degrees from the vertical, beginning at the maximum height of the building</p>	Construction /final inspection	ISD	
7	<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. Failure to remove may result in a fine or penalty.</p>	Perpetual	ISD	



8	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	
9	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	
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:

Orsola Susan Fontano, *Chairman*  
Richard Rossetti, *Clerk*  
Elaine Severino  
Josh Safdie  
Anne Brockelman (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 \_\_\_\_\_

