



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

MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

PLANNING DIVISION

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DANIELLE EVANS  
ELAINE SEVERINO  
JOSH SAFDIE (ALT.)  
BRANDY BROOKS (ALT.)

**Case #: ZBA 2014-22**  
**Site: 114 Highland Avenue**  
**Date of Decision: May 7, 2014**  
**Decision: Petition Approved with Conditions**  
**Date Filed with City Clerk: May 12, 2014**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Sprint Spectrum
<b>Applicant Address:</b>	101 Palisades Circle, Stoughton, MA 02072
<b>Property Owner Name:</b>	Somerville Housing Authority
<b>Property Owner Address:</b>	30 Memorial Road, Somerville, MA 02145
<b>Agent Name:</b>	Gerry Squires
<b>Agent Address:</b>	101 Palisades Circle, Stoughton, MA 02072

Legal Notice: Applicant, Sprint Spectrum, and Owner Somerville Housing Authority, seek Special Permit Approval under SZO §7.11.15.3 and SZO §14 to add equipment to a wireless communication facility which includes the installation of new panel antennas and remote radio heads. RC zone. Ward 3.

<u>Zoning District/Ward:</u>	RC zone/Ward 3
<u>Zoning Approval Sought:</u>	§7.11.15.3 & §14
<u>Date of Application:</u>	April 1, 2014
<u>Date(s) of Public Hearing:</u>	May 7, 2014
<u>Date of Decision:</u>	May 7, 2014
<u>Vote:</u>	5-0

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Appeal #ZBA 2014-22 was opened before the Zoning Board of Appeals at Somerville City Hall on May 7, 2014. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143  
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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 add 3 panel antennas and 3 remote radio heads to the building to accommodate faster service in the area. The equipment will be mounted on the existing penthouses. The antennas and radio heads will be painted to match the penthouse and existing equipment. There will be a hybridflex cable installed following an existing coax line on the rooftop that will lead to each antenna.

### **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 Applicant seeks a Special Permit under §7.11.15.3 of the SZO, which requires the Applicant to follow guidelines and procedures as set forth in Article 14 for the "regulation of wireless telecommunications facilities so as to allow and encourage such uses in the City with minimal harm to the public health, safety, and general welfare."

Staff finds that minimal harm would be imposed upon the health, safety, and welfare of the surrounding neighborhood. 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 base of the building to the top roof beam is 63 feet and the height to the top of the existing penthouses is 82 feet. This building is one of the tallest in the surrounding area. The proposed new antennas would not extend above the rooflines of the penthouses.
- b. *Proximity of facility to residential structures and residential zoning districts:* The building at 114 Highland Avenue is a 36 unit residential structure in the RC residential district. This location abuts an RA residential district but it is currently being used as a wireless telecommunication facility already and the Applicant has approximately 9 antennas and associated equipment located there now.
- c. *Nature of uses on adjacent and nearby properties:* The site is located in a RC district. The surrounding area contains mostly three- and multi-family dwellings, as well as some religious institutions and community uses. There is an RA residential district directly behind the subject property which contains primarily single- and two-family dwellings. The proposed alterations to the wireless 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 either. Furthermore, in connection with its FCC license, the Applicant is prohibited from interfering with radio or television transmissions.

- d. *Surrounding topography and prominence of proposed facility:* The building is the tallest in the surrounding area and is an existing wireless facility. Though the proposed rooftop antennas are visible from several vantage points, the proposal to match them to the color of the façade to which they will be affixed will reduce their prominence from the public way
- 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:* The antennas and remote radio heads will be installed onto the sides of the existing penthouses and will not protrude above the roofline of the penthouses. The equipment will also be painted to match the color of the penthouse walls to camouflage them. A condition of this report is that the Applicant repaint all existing equipment and the penthouse doors to match the brick. There are several existing remote radio heads that are not painted.
- g. *Location of tower, considering more suitable locations:* The application is in compliance with this review criterion. The Applicant is proposing to locate the antennas on an existing wireless telecommunications facility within a residential district. The antennas will be painted the color of the penthouse walls to which they will be affixed for camouflage and they will not protrude over the roofline of the penthouses, therefore not impacting the viewshed of the area.
- h. *Proposed ingress and egress:* There is existing access to the roof and equipment on the roof via the two penthouse stairwells in the building.
- i. *Distance from existing facilities:* The site is currently operating as a Sprint wireless facility and the proposed changes will allow an increase in service.
- j. *Availability of suitable existing towers, poles, other structures, or alternative technologies, as discussed in Section 14.5.2:* The site where the Applicant is proposing to install 3 new antennas, radio heads, and other associated equipment is currently operating as a wireless telecommunications facility.

3. Consistency with Purposes: The Applicant has to ensure that the project "is consistent with (1) the general purposes of this Ordinance as set forth in Article 1, and (2) the purposes, provisions, and specific objectives applicable to the requested special permit which may be set forth elsewhere in this Ordinance, such as, but not limited to, those purposes at the beginning of the various Articles."

The Staff finds that the proposal, as conditioned, is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to promoting "the health, safety, and welfare of the inhabitants of the City of Somerville; to provide for and maintain the uniquely integrated structure of uses in the City; to protect health; to secure safety from fire, panic and other dangers; to conserve the value of land and buildings; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality.

The proposal, as conditioned, is also consistent with those purpose established for the RC district, which is "To establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the district." Allowing the Applicant to install additional equipment at this wireless facility is a convenience for residents of the district who use Sprint as a wireless network carrier. Staff finds



the new antennas and associated equipment, as conditioned, will not negatively impact the surrounding uses in the area.

Furthermore, the Staff finds that the proposal, as conditioned, is consistent with the purposes set forth in Article 14 of the Zoning Ordinance as conditioned in this report, to:

- a) *Protect residential areas and land uses from potential adverse impacts of towers and antennas;*
- b) *Encourage the location of telecommunications facilities in non-residential areas;*
- c) *Minimize the total number of towers and antennas throughout the community;*
- d) *Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;*
- e) *Encourage users of towers and antennas to locate them in areas where the adverse impact on the community is minimal;*
- f) *Encourage users of towers and antennas to configure them in ways that minimize the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;*
- g) *Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;*
- h) *Consider the public health and safety of communications facilities;*
- i) *Avoid potential damage to adjacent properties from tower and antenna failure through sound engineering and careful siting of structures.*

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

Much of the surrounding neighborhood contains primarily residential uses. The subject property is just west of City Hall located in an RC district which runs along Highland Avenue corridor containing mostly three- and multi-family dwellings, as well as some religious institutions and community uses. There is an RA district directly behind the subject property which contains primarily single- and two-family dwellings. Most of the structures along Highland Avenue are between four and seven stories in height. In the RA districts just off of Highland Avenue, most of the structures are between 2½ and 3 stories.

Staff finds the project and the way the equipment is designed to be compatible with the surrounding area and land uses. There are no impacts of the proposal. The proposed location of the antennas on the penthouse façades as conditioned would not have a negative effect on the surrounding neighborhood or detract from the appearance of the building due to the height of the building and the setback of the penthouses. The antennas will be mounted on the existing penthouse walls on the rooftop and will be painted to match the color of the surfaces to which they are affixed. Photo simulations were also taken from a variety of locations in the neighborhood and they indicate there will be limited impact of the installation on the surrounding neighborhood.

5. Adverse Environmental Impacts: The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.



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, Sprint is prohibited from interfering with radio or television transmissions and furthermore, these transmissions function at different frequencies than those licensed to Sprint for the proposed telecommunications equipment. 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 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 **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	<p>Approval for the installation (replacement) of a wireless communications facility under SZO §7.11.15.3 and SZO §14 consisting of six panel antennas 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" data-bbox="248 1058 886 1562"> <thead> <tr> <th data-bbox="248 1058 570 1094">Date (Stamp Date)</th> <th data-bbox="570 1058 886 1094">Submission</th> </tr> </thead> <tbody> <tr> <td data-bbox="248 1094 570 1192">(April 1, 2014)</td> <td data-bbox="570 1094 886 1192">Initial application, submitted to the City Clerk’s Office</td> </tr> <tr> <td data-bbox="248 1192 570 1318">March 26, 2014</td> <td data-bbox="570 1192 886 1318">Plans submitted to OSPCD (Photo Sims Existing &amp; Proposed Views of North, Southwest, South)</td> </tr> <tr> <td data-bbox="248 1318 570 1562">January 6, 2014</td> <td data-bbox="570 1318 886 1562">Plans submitted to OSPCD (T-1 Title Sheet, C-1 Plot Plan, Z-1 Roof &amp; Equipment Plans, Z-2 Elevation, Z-3 Antenna Plans, Z-4 Equipment Details, Z-5 Mounting Details)</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	(April 1, 2014)	Initial application, submitted to the City Clerk’s Office	March 26, 2014	Plans submitted to OSPCD (Photo Sims Existing & Proposed Views of North, Southwest, South)	January 6, 2014	Plans submitted to OSPCD (T-1 Title Sheet, C-1 Plot Plan, Z-1 Roof & Equipment Plans, Z-2 Elevation, Z-3 Antenna Plans, Z-4 Equipment Details, Z-5 Mounting Details)	BP / Final Sign Off	ISD / PIng.	
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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	<p><i>Compliance with Federal Communications Commission Guidelines for Human Exposure to Electromagnetic Fields.</i> To ensure compliance with the standards established by the Federal Communications Commission Office of Engineering and Technology (“FCC”) in OET Bulletin 65 as adopted by Massachusetts Department of Public Health under 105 CMR 122.021, the Applicant shall perform measurements, within two (2) months of the date that the Applicant’s wireless telecommunications facility commences operation and at intervals of twelve (12) months thereafter, to establish that the Applicant’s wireless telecommunications facility complies and continues to comply with the FCC guidelines and applicable state regulations for human exposure to radio frequency electromagnetic fields for human exposure to radio frequency electromagnetic fields. The Applicant shall provide the results of such measurements with certification of compliance to the City of Somerville, Health Department, with a copy to the Zoning Board of Appeals.</p>	Continuous	BOH	
4	<p>Any antenna that is not operated continuously for a period of twelve (12) months shall be considered abandoned, and the owner of such antenna shall remove the same within ninety (90) days of notice from the City of Somerville informing the owner of such abandonment.</p>	Continuous	ISD	
5	<p>The Applicant shall remove any of that carrier's unused or non-operating wireless equipment prior to installation.</p>	BP	Plng.	
6	<p>The Applicant shall identify and inform Planning Staff of any non-operating wireless equipment from any carrier prior to installation.</p>	BP	Plng.	
7	<p>The Applicant shall at his/her expense replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard.</p>	Final Inspection	DPW	
8	<p>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.</p>	During Construction	T&P	



9	The panel antennas and remote radio heads (existing and new) will be painted to match the building.	Final Sign Off	PIng.	
10	The penthouse doors visible in the photo simulations should be painted to match the surrounding material.	Final Sign Off	PIng.	
11	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	PIng.	



Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*  
Orsola Susan Fontano, *Clerk*  
Richard Rossetti  
Danielle Evans  
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 \_\_\_\_\_

