



PLANNING BOARD

P.O. Box 1305
Littleton, Massachusetts 01460

WIRELESS TELECOMMUNICATIONS TOWER AND FACILITY BYLAW SPECIAL PERMIT RECORD AND DECISION 519 GREAT ROAD/LITTLETON WATER DEPARTMENT WELL SITE

Friday, November 5, 2010

APPLICATION: SPECIAL PERMIT FOR WIRELESS
TELECOMMUNICATIONS FACILITIES

PROPERTY LOCATION: 519 Great Road
Map R-18, Parcel 14-1

DESCRIPTION: Application for installation, operation, and maintenance of a wireless telecommunications facility, including a 100-foot monopole, up to nine antennas, coaxial cables, and radio communications equipment and associated site improvements.

APPLICANT: T-Mobile Northeast LLC
15 Commerce Way
Norton, MA 02776

OWNER: Littleton Water Department
Savas Danos, General Manager
39 Ayer Road
Littleton, MA 01460

DATES OF LEGAL NOTICES: September 16 and 23, 2010

DATES OF HEARING: September 30, October 14, and October 28, 2010

MEMBERS PRESENT: Mark Montanari, Janet LaVigne, Richard S. Crowley, Don MacIver and Steve Wheaton

REFERENCE PLANS: "Littleton Well Site RFP 519 Great Road Littleton, MA 01460 Site Number: 4BN-1283C" (6 Sheets); dated 08/02/10; prepared by Hudson Design Group with the following sheets:

- T-1 Title Sheet
- C-1 Existing Conditions
- C-2 Abutter Plan
- Z-1 Site Plan & Notes
- Z-2 Plan & Elevation
- Z-3 Details

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APPLICATION: On August 10, 2010, the application, plans, supporting documentation and the application fee were submitted to the Planning Board.

HEARING: Following proper notification, the Public Hearing was opened on Thursday, September 30, 2010 at the Littleton Town Office. The Public Hearing was continued on Thursday, October 14, and October 28, 2010. All those interested were given an opportunity to be heard. The Hearing was closed on October 28, 2010.

FINDINGS: Following the Public Hearing, the Planning Board, based on the application, and together with the materials and testimony provided at the hearing, made the following specific findings regarding the land in question and the proposed use:

The location and the proposed tower

This site is a 75-foot by 75-foot lease parcel, within the property, with accompanying access drive, located at 519 Great Road, the Littleton Water Department well site. The site is municipal property and is in the Industrial A zoning district. A wireless telecommunications tower and related facilities are allowed by special permit at this site.

In addition, T-Mobile has proposed a tower of 150 feet in height. This height does not comply with Section 173-131.B.(5) (“[t]ower height shall not exceed 100 feet measured from the base of the tower to the highest point of the tower or its projection”). The Board of Appeals voted to grant a variance of this requirement on October 21, 2010. This variance has the effect of making T-Mobile eligible for the grant of a special permit despite its noncompliance with this particular requirement.

The 150-foot height is intended to provide for co-location of two additional wireless services providers plus space for Town antennas.

Findings pursuant to Section 173-7.C

Criteria. Special permits shall only be granted if it appears to the special permit granting authority that no significant nuisance, hazard or congestion will be created and that there will be no substantial harm to the neighborhood or derogation from the intent of this chapter.

The tower and its related facilities do not constitute a significant nuisance, and will not create significant hazard or congestion. The tower and its related facilities will comply with all applicable local, state and federal safety rules and regulations, and will generate approximately two vehicle trips per month for routine maintenance and inspection.

The tower and its related facilities will not cause substantial harm to the neighborhood or derogation from the intent of this chapter. This use is allowed by special permit on this property, and while the tower does not comply with the

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special permit requirements of Section 173-131.B.(5), T-Mobile has obtained variance from this section.

Findings pursuant to Section 173-131

- A *The tower and its facilities shall be located in accordance with the Federal Communications Commission (FCC) and the Federal Aviation Administration (FAA) Regulations in effect at the time of construction. The operation of the Tower and its facilities shall comply with all requirements of these agencies during the entire period of operation.*

T-Mobile is licensed by the FCC to construct and operate a wireless telecommunications network. It provided satisfactory documentation and testimony that the tower and its facilities will not violate FCC or FAA regulations presently in effect, and that the operation of the tower and its facilities will comply with applicable requirements during operation.

- B.(1) *To the extent feasible all service providers shall co-locate on a single tower. Towers and accessory building shall be designed to structurally accommodate the maximum number or users.*

This tower will allow co-location of two additional wireless services providers.

- B.(2) *New towers shall be considered only upon a finding by the Planning Board that existing or approved towers cannot accommodate the wireless communications equipment planned for the proposed tower.*

There are no existing or approved towers within the affected coverage area that can accommodate the wireless telecommunications equipment to be located in this tower. Consideration of this new tower is therefore appropriate.

- B.(3) *If it is demonstrated to the satisfaction of the Planning Board that the siting of proposed facilities on municipal land, or within an existing church steeple is not feasible, then the towers and facilities shall be located on Industrial Land within five hundred (500) feet of a divided highway.*

This tower is located on municipal land. No such demonstration is required.

- B.(4) *The base of all towers shall be no closer than three (300) hundred feet to a dwelling in a residential district. Facilities shall comply with existing setback requirements.*

The base of this tower will be located approximately more than 300 feet to any dwelling. The facility will comply with existing setback requirements.

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- B.(5) *Tower height shall not exceed 100 feet measured from the base of the tower to the highest point of the tower or its projection.*

The proposed tower is 150 feet in height. In a vote on October 21, 2010, the Board of Appeals granted T-Mobile a variance of Section 173-131.B.(5). This variance has the effect of making T-Mobile eligible for a special permit despite noncompliance with this specific requirement.

- B.(6) *Fencing shall be provided to control access to the base of the tower which fencing shall be compatible with the scenic character of the Town and shall not be of barbed wire or razor wire.*

T-Mobile will provide a chain link fence which will control access to the base of the tower, will be compatible with the scenic character of the Town, and will not be of barbed wire or razor wire.

- B.(7) *Access shall be provided to a tower site by a roadway which respects the natural terrain, does not appear as a scar on the landscape and is approved by the Planning Board and the Fire Chief to assure emergency access at all times. Consideration shall be given to design which minimizes erosion, construction on unstable soils and steep slopes.*

The access to be provided is consistent with the requirements of this section. The site will be accessed in part by using an existing paved roadway. Where new access is required, it will not be paved. The new access minimizes erosion, construction on unstable soils, and steep slopes. The exact location of the new access will be determined in the field in order to preserve mature trees. As conditioned below, emergency access will be provided at all times

- B.(8) *The applicant shall demonstrate to the satisfaction of the Planning Board that the location of the tower is necessary and that the size and height is the minimum necessary for the purpose.*

The location of the tower is necessary. T-Mobile submitted coverage plans showing a need for service in this coverage area. The Planning Board is aware of no alternative location that is less intrusive to the interests protected by the zoning bylaw.

The proposed height of 150 feet is the minimum necessary for T-Mobile's purpose. This height allows co-location of two additional wireless services providers plus space for the Town's antennas.

- B.(9) *There shall be no signs, except for announcement signs, no trespassing signs and a required sign giving a phone number where the owner can be reached on a twenty-*

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four (24) hour basis. All signs shall conform with the sign requirements of this bylaw.

As conditioned below, there shall be no signs except for announcement signs, no trespassing signs and a sign giving a phone number where the owner can be reached on a 24-hour basis. These signs will comply with the sign requirements of the zoning bylaw.

- B.(10) *To the extent feasible all network interconnections from the communications site shall be installed underground.*

T-Mobile has provided for underground connections to the extent feasible. The utility connections to this facility are mainly underground.

- B.(11) *The tower shall minimize, to the extent feasible, adverse visual effect on the environment. The Planning Board may impose reasonable conditions to ensure this result, including painting, lighting standards and screening.*

The adverse visual effects of the tower have been minimized to the extent feasible. The tower will be gray in color, and is located remote from any residential uses.

- B.(12) *Removal of Abandoned Towers and Facilities. Any tower or facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such tower and facility shall remove same within ninety (90) days of receipt of notice from the governing authority notifying the owner of such abandonment.*

If such tower or facility is not removed within said ninety (90) days, the Town may cause such tower or facility to be removed at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

As conditioned below, the tower and facility shall be considered abandoned if not operated for a continuous 12-month period. If abandoned, the owner will be required to remove them within 90 days after receipt of notice from the governing authority.

Additional findings

1. The Board finds, pursuant to Section 173-133 D that the applicant demonstrated that no additional lighting of the tower would be required, and that the installation would comply with Mass. Department of Public Health and FCC regulations concerning radio frequency emissions.
2. The site will enhance cell phone service in the area.

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3. The balloon test (visual demonstration) was conducted as requested by the Planning Board.
4. Battery back-up is to be provided to this site (no generator is proposed).
5. Emergency access is to be provided at all times.

Federal Telecommunications Law

This special permit application concerns a wireless telecommunications facility. In addition to the special permit requirements of the bylaw, the Planning Board considered whether denying T-Mobile's application would have had the effect of prohibiting the provision of personal wireless services within the meaning of the Telecommunications Act of 1996. On this topic, the Planning Board finds that T-Mobile demonstrated the existence of a gap in its coverage in the area around this location. Specifically, T-Mobile submitted evidence that it lacks adequate coverage in a sizeable area surrounding the site, and that a significant number of people travel through this coverage area every day.

DECISION: At the Board meeting of Thursday, October 28, 2010, Mr. Crowley made a motion, seconded by Mrs. LaVigne, to **grant** the applicant a Wireless Telecommunication Special Permit as described herein with the following **conditions**:

1. The operation of the tower and its appurtenant equipment shall comply with all applicable FAA and FCC regulations.
2. The height of the installation shall not exceed 100 feet, measured from the base of the tower to the highest point of the tower, as the Planning Board has no authority to grant a height greater than 100 feet. The Planning Board does find that the Appeals Board approved a height variance for this site that allows for the construction of a 150-foot tower.
3. The monopole shall be gray in color to minimize visual impact.
4. There shall be a sign posted on the gate of the fenced compound providing emergency contact information, including a phone number where the owner can be reached on a 24-hour basis.
5. There shall be no signs at the site except for announcement signs, no trespassing signs, and the aforementioned emergency contact sign. These signs shall comply with the Town's sign bylaw (Town of Littleton Article VIII, Section 173-34 through 172-41, inclusive).
6. Equipment within the fenced compound, including the raceway, shall be gray in color as shown on the site plan.

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7. The applicant shall maintain the access roadway.
8. Access to the site shall be maintained at all times and under all weather conditions.
9. No sodium deicing materials are allowed to be used at this site.
10. No lights shall be placed on this tower or at this site.
11. If the tower is not operative for a continuous 12-month period, it shall be considered abandoned, and the owner shall remove it within 90 days of receipt of notice from the governing authority notifying the owner of such abandonment.
12. The applicant, prior to issuance of a building permit, shall submit a bond in the amount of \$30,000 for the removal of the tower, all equipment, and return of the site to the original grading.
13. If the antennas are not operative for a continuous 12-month period, the antennas shall be considered abandoned, and the owner shall remove them within 90 days of receipt of notice from the governing authority notifying the owner of such abandonment.
14. The applicant, prior to issuance of a building permit, shall submit a bond in the amount of \$5000 for the removal of the antennas.
15. This Special Permit is granted in addition to the Site Plan approved October 28, 2010.
16. This Special Permit shall not become effective until this Special Permit is recorded at the Registry of Deeds.
17. This Special Permit shall expire in 5 years.

The Board voted 5 to 0 to **grant** the Special Permit with the above conditions.

Each Board member voted as follows:

Mark Montanari	AYE
Janet LaVigne	AYE
Richard S. Crowley	AYE
Steve Wheaton	AYE
Don MacIver	AYE

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Appeals, if any, shall be made pursuant to Section 17 of Chapter 40A, Massachusetts G.L., and shall be filed within 20 days after the date this decision is filed with Town Clerk.

Signed:

Date Filed with Town Clerk: 11/5/10



Richard S. Crowley, Clerk



Town Clerk

TOWN CLERK CERTIFICATION:

To Whom It May Concern:

I, Diane Crory, Clerk of the Town of Littleton hereby certify that twenty days have elapsed since the filing of this decision by the Planning Board for this Wireless Telecommunications Facility Special Permit and that no appeal concerning said decision has been filed, or that any appeal that has been filed has been dismissed or denied.

Town Clerk Diane Crory
Littleton, Mass.

Date