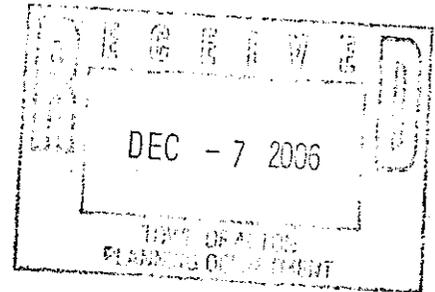


FYI

TOWN OF BOXBOROUGH



ZONING BOARD OF APPEALS



Decision No. 2006-10

December 5, 2006

This is an application by Omnipoint Communications, Inc., a wholly owned subsidiary of T-Mobile USA, Inc. ("Omnipoint"), for a special permit pursuant to Section 4000(3) footnote 17 and Sections 7400, 7404, 9203, 9204 and 9101(1) of the Boxborough Zoning By-Laws ("Zoning Bylaws") to install, operate and maintain a wireless telecommunications facility, including a 100 foot monopole, antennas, coaxial cables and radio communications equipment, at the property located at 90 Central Street, Boxborough, Massachusetts. Brian S. Grossman, Esq. of Prince, Lobel, Glovsky & Tye, LLP on behalf of Omnipoint Communications, Inc., submitted the application. Frank M. Wunderler, a Radio Frequency Engineer, was present at the proceedings and presented technical detail in support of Omnipoint's application.

After causing notice of the time and place of its public hearing and of the subject matter thereof to be published, posted and mailed to the applicant, abutters, Planning Board., Board of Selectmen, Board of Health, Inspector of Buildings, Conservation Commission and Town Clerk, as required by law, Karim Raad, Chairman of the Board of Appeals, called the hearing to order at 7:40 p.m. on Tuesday, August 15, 2006. A site visit, which included a balloon test, took place on August 24, 2006. Further evidence on the application was taken at the Board's public hearing on September 5, 2006, and the hearing was closed on that date. Board of Appeals Members Karim Raad, Christian Habersaat, Thomas Gorman, Lonnie Weil and Michael Toups were present throughout the proceedings. Other persons who were present at the hearings are identified in the file on these proceedings.

The following exhibits were submitted for the Board's consideration and deliberation:

- Exhibit A: Application materials, including certified abutters list, applicant's supporting statement, FCC license, propagation maps, RF Affidavit, facility plans and lease.
- Exhibit B: Plans entitled Tech Central Raw Land.
- Exhibit C: Legal Notice.
- Exhibit D: Planning Board comments on application and proposed wireless telecommunications facility.
- Exhibit E: Set of balloon test photographs.
- Exhibit F: Cluster mount antenna photographs.
- Exhibit G: Monopole antenna photographs.
- Exhibit H: Photo Slick Stick with lights.

The Board met to **deliberate** on the proceedings on November 21, 2006. After due consideration of the application, the record of the proceedings and the exhibits submitted, the Board makes the following findings of fact:

FINDINGS OF FACT:

1. The subject property, 90 Central Street, Boxborough, Massachusetts, is owed by Wells Operating Partnership, L.P., a Delaware limited partnership and is shown on Assessor's Map 12, Block 6, Lot 252-1 ("Property").
2. The Property is located in the Office Park (OP) zoning district and is within the so-called Wireless Communications Overlay zoning district. Under Zoning Bylaw Section 4003(3) footnote 17 and Section 7403 the use of the Property for a wireless telecommunications facility is permitted by special permit.
3. Omnipoint is licensed by the Federal Communications Commission to construct and operate a wireless telecommunications network in markets throughout the United States.
4. Omnipoint has entered into a Lease Agreement with the owner of the Property for the lease of certain ground space consisting of approximately one thousand six hundred (1,600) square feet of land, as more particularly described in the lease, for the purposes of constructing and operating a wireless telecommunications facility at the Property.
5. Omnipoint seeks to install, operate, and maintain a wireless communications facility consisting of up to nine (9) wireless telecommunications antennas (panel antennas) mounted to a proposed 100-foot monopole tower located on the Property. Three (3) Base Transceiver Station cabinets, one (1) battery backup cabinet and one (1) power and telephone cabinet are also proposed to be installed within a fenced compound.
6. Omnipoint's proposed wireless telecommunications facilities are shown on the plans attached to its application (Exhibit A) as tab 6 ("Proposed Plans").
7. Omnipoint has performed a study of radio frequency coverage for the Town of Boxborough and from the Property, the results of which are shown on coverage maps submitted with the application (Exhibit A) as tab 4.
8. Omnipoint has submitted with its application radio frequency propagation maps, which show its current coverage and the gap in coverage that the proposed site seeks to fill; and a radio frequency propagation map showing anticipated coverage from the Property.
9. Omnipoint has represented that a telecommunications facility will provide adequate coverage to the targeted sections of the Town of Boxborough and the immediate surrounding area (including certain portions of Acton and Littleton) if its antennas are located at the requested height of 100 feet.
10. Omnipoint has represented that the proposed wireless telecommunications facility will comply in all respects with all federal, state and local regulations concerning radio frequency emissions.

CONCLUSIONS:

The Board concludes that ample reasons justifying the zoning relief sought by Omnipoint were articulated at the hearing and are set forth in the application in support of Omnipoint's request for a special permit. The Board further concludes that the proposed wireless telecommunications facility meets the Boxborough Zoning Bylaws and, in particular, complies with Section 7400 of the Bylaws. Of note, the proposed wireless telecommunications facility is to be constructed in the Town's designated Wireless Communications Overlay zoning district.

Therefore, after due consideration of the foregoing and the exhibits presented at the hearing the Board of Appeals on November 21, 2006 voted **unanimously** to grant the requested special permit **subject to the following conditions:**

1. Prior to any construction, Omnipoint shall obtain all necessary building permits and approvals from the Inspector of Building.
2. Prior to any construction, Omnipoint shall obtain, if necessary, the approval of the Boxborough Conservation Commission in connection with any work on or at the Property that falls within the contemplation and/or jurisdiction of the Conservation Commission.
3. The wireless telecommunications facility shall be constructed in the manner as depicted on the Proposed Plans. Specifically, the monopole tower shall be limited to one hundred (100') feet in height and shall be constructed using up to, but no more than, nine (9) panel antennas. The wireless facility shall be constructed in the area depicted on the Proposed Plans, which area was the subject of a balloon test on September 5, 2006.
4. Omnipoint shall remove all structures associated with the wireless telecommunications facility at its expense within one (1) year of cessation of use.
5. The wireless telecommunications facility is not to be lit or illuminated, except for necessary security lighting in which case such lighting shall be limited to low level security lighting installed at or near ground level. No lighting will be placed at the top of the monopole unless required by the Federal Aviation Administration or the Massachusetts Aeronautics Commission.
6. All utilities servicing the wireless telecommunications facility shall be located underground.
7. A fence to control unauthorized access to the wireless telecommunications facility shall be placed around the facility. The height of the fence is not to exceed six (6) feet and the fence shall be appropriately landscaped and screened from public view.
8. A sign no greater than one (1) square foot will be provided and located at the facility identifying a 24-hour contact number to the operator in charge of maintaining the wireless telecommunications facility.
9. The wireless telecommunications facility shall comply in all respects with all federal, state and local regulation concerning radio frequency emissions. The wireless

telecommunications facility will satisfy the radio frequency signal regulations adopted by the Massachusetts Department of Public Health. Use of the Property shall comply with all Federal Communications Commission requirements regarding the confinement of electromagnetic emissions geographically, including prevention of interference with broadcast radio and television services, licensed public service and commercial communications.

10. Any landscaping (trees, shrubs or flowers) located at the Property that was planted or installed in accordance with prior permits, variances or approvals issued or granted by the Board of Appeals, Planning Board or the Conservation Commission that is removed or destroyed during the construction of the wireless telecommunications facility shall be replaced with similar landscaping.

11. Omnipoint will provide the Town of Boxborough space for one (1) town-provided public safety whip antenna and associated transmission line and ground space of approximately twenty (20) square feet for an outdoor cabinet. Omnipoint will install the antenna and cable at the time of the tower construction at no cost to the Town.

12. Any change or modification to the plans submitted as part of the decision shall require the approval of the Board of Appeals.

The foregoing restrictions and conditions have been spelled out for the purpose of emphasizing their importance and are not intended to be all-inclusive or to negate the remainder of the Boxborough Zoning Bylaw.

The Board shall have the power to modify or amend the terms and conditions of this special permit on the application of the owner or applicant or upon its own motion. All the provisions of this paragraph applicable to the approval shall, where apt, be applicable to such modification or amendment.

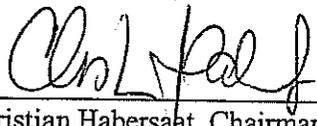
This special permit shall not be valid until recorded with the Middlesex South District Registry of Deeds and evidence of such recording provided to the Inspector of Buildings.

This special permit will expire on November 21, 2008, if a substantial use thereof has not commenced except for good cause. Any further request for extension of time set forth herein must be made in writing to the Board of Appeals at least thirty (30) days prior to November 21, 2008, and the Board herein reserves the right and power to grant or deny such extension without a public hearing. The Board shall not grant any extension of said permit unless it finds the use of the property in question or construction on the site has begun and is proceeding in a timely manner except for good cause.

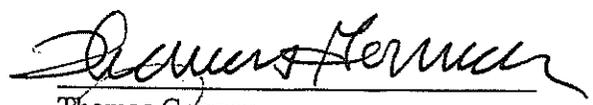
Appeals, if any, shall be made pursuant to Section 17 of the Massachusetts General Laws, Chapter 40A and shall be filed within twenty (20) days after the date of filing of the above referenced decision with the Town Clerk.

Witness our hands this 5th day of December 2006.

BOXBOROUGH BOARD OF APPEALS:

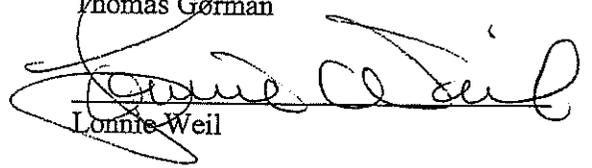


Christian Habersaat, Chairman

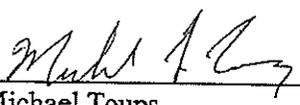


Thomas Gorman

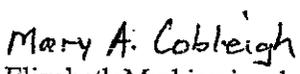
Karim Raad



Lonnie Weil

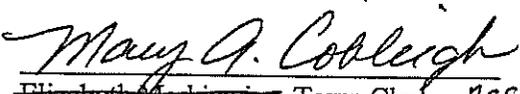


Michael Toups



Mary A. Cobleigh

I, Elizabeth Markiewicz, hereby do certify that this is a true copy of the above Board of Appeals Decision 2006-10 filed on December 6, 2006.



~~Elizabeth Markiewicz, Town Clerk, ASSISTANT~~
Mary A. Cobleigh

TO WHOM IT MAY CONCERN:

I, hereby certify that the twenty (20) day appeal period on this decision has expired, and no appeals have been filed with this office.

Elizabeth Markiewicz, Town Clerk

Date: _____