

**ZONING BOARD OF APPEALS**

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482-5992

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ZBA 2010-21

Petition of Sprint Spectrum L.P. & its affiliate

Clear Wireless LLC

62 Walnut Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, March 4, 2010 at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of SPRINT SPECTRUM, L.P. and its affiliate CLEAR WIRELESS, LLC requesting a Special Permit pursuant to the provisions of Section XXIIIC and Section XXV of the Zoning Bylaw for relocation of an existing WiMax antenna to the existing rooftop penthouse and concealed within a proposed stealth vent pipe set at a height of 65.7 feet at the top of the antenna, installation of a wireless backhaul dish antenna set at a centerline height of 58.6 feet, installation of a wireless backhaul dish antenna set at a centerline height of 48.7 feet, and installation of one supporting equipment cabinet to be located within the existing equipment room, located at 62 WALNUT STREET, in a Business A District.

On February 16, 2010, the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Jason Ellis, Esq., who said that he was representing the applicant, Clear Wireless (the "Petitioner"). He said that the applicant would like to modify the existing facility. He said that the proposal is to move one of the façade mounted antennas inside a stealth flue vent pipe that will be mounted to the existing penthouse. He said that it will match the existing vent pipes.

Mr. Ellis said that the proposal is to add two backhaul antennas, each two feet in diameter. He said that one will be façade mounted close to where the other relocated panel was. He said that the second backhaul antenna will be mounted on the shorter penthouse on the roof of the building. He said that an equipment cabinet will be added inside the existing equipment room that is located in the basement in a separate room. He said that there is an existing battery backup.

The Board asked about the function of the backhaul antennas. Mr. Ellis said that this technology is to transmit data. He said that requires a lot more band width. He said that this will create a backhaul network to transmit data to and from an aggregate WAP site.

The Board asked where the central location will be for the hub facility. Anoop Jaikumar, RF Engineer, said that he was not sure of the exact location.

The Board said that the applicant stated that the proposed dish antennas would increase broadband capacity. The Board said that the applicant also stated that they would be improving service in the area. Mr. Jaikumar said that Clear Wireless is a new network that will provide service by the end of the year.

ZBA 2010-21
Petition of Sprint Spectrum L.P. & its affiliate
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62 Walnut Street

He said that they currently have no service in the area. He discussed the maps that were submitted. He said that the maps show future coverage with and without the proposed antennas.

Mr. Ellis said that Clear Wireless is an affiliate of Sprint Nextel. He said that Clear Wireless will be using Sprint Nextel's existing sites. He said that they try to team with Sprint Nextel wherever they can so that they do not have to add new cell sites.

Mr. Jaikumar said that Sprint Nextel is a voice network and Clear Wireless is a data service. He said that both companies will be marketing separately in the Boston area. Mr. Ellis said that they will use the same equipment but each company will sell under its own brand.

Mr. Jaikumar said that the three sites in Wellesley, MA-BOS7254, MA-BOS7259 and MA-BOS5296, are existing sites. He said that site 7254 has existing carriers on it but no Nextel. He said that 5296 and 7259 have Sprint on them.

Mr. Jaikumar said that 7254 and 7259 are located on Washington Street. The Board asked about MA-BOS529. Mr. Jaikumar said that is located in Needham.

There was no one present at the public hearing who wished to speak to the petition.

Statement of Facts

The subject property is located at 62 Walnut Street, in a Business A District.

The Petitioner is requesting a Special Permit for relocation of an existing WiMax antenna to the existing rooftop penthouse and concealed within a proposed stealth vent pipe set at a height of 65.7 feet at the top of the antenna, installation of a wireless backhaul dish antenna set at a centerline height of 58.6 feet, installation of a wireless backhaul dish antenna set at a centerline height of 48.7 feet, and installation of one supporting equipment cabinet to be located within the existing equipment room.

Letter of Authorization for Zoning Purposes, dated 10/23/09, signed by Arthur H. Nelson, President, Newton Wellesley Executive Office Park LLC, Supporting Statement, dated 2/10/10, signed by Anne K. Malone, Prince Lobel, Title Sheet T-1, General Notes G-1, Roof Top Plan & Equipment Room Layout A-1, East Elevation A-2, Details A-3, Electrical & Grounding Schematic E-1, & Antenna Grounding Details E-2, dated 9/1/09 & 9/24/09, prepared by Maxton Technology Bay State Design, Photographic Simulations, dated September 2009, prepared by Bay State Design, Inc., Radio Affidavit and Propagation Maps, dated 11/19/09, prepared by Anoop Jaikumar, RF Engineer, Clear Wireless LLC, FCC License, dated 1/16/09, and Massachusetts Public Health Letter were submitted.

On November 20, 2009, the Design Review Board recommended that the Zoning Board of Appeals approve the special permit application.

On February 22, 2010, the Planning Board Staff reviewed the petition and recommended that the petition be approved.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The subject structure does not conform to the current Zoning Bylaw, as noted in the foregoing Statement of Facts.

It is the finding of this Authority that relocation of an existing WiMax antenna to the existing rooftop penthouse and concealed within a proposed stealth vent pipe set at a height of 65.7 feet at the top of the antenna, installation of a wireless backhaul dish antenna set at a centerline height of 58.6 feet, installation of a wireless backhaul dish antenna set at a centerline height of 48.7 feet, and installation of one supporting equipment cabinet to be located within the existing equipment room will not adversely impact adjacent properties.

Therefore, a Special Permit is hereby granted, as voted unanimously by this Authority at the Public Hearing, for relocation of an existing WiMax antenna to the existing rooftop penthouse and concealed within a proposed stealth vent pipe set at a height of 65.7 feet at the top of the antenna, installation of a wireless backhaul dish antenna set at a centerline height of 58.6 feet, installation of a wireless backhaul dish antenna set at a centerline height of 48.7 feet, and installation of one supporting equipment cabinet to be located within the existing equipment room.

The Inspector of Buildings is hereby authorized to issue a permit for installation upon receipt and approval of a permit application and detailed installation plans.

If installation has not commenced, except for good cause, this Special Permit shall expire two years after the date time stamped on this decision.

ZBA 2010-21
Petition of Sprint Spectrum L.P. & its affiliate
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62 Walnut Street

APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.

Richard L. Seegel, Chairman

Cynthia S. Hibbard

David L. Grissino

cc: Planning Board
Inspector of Buildings
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