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WELLESLEY, MA 02181**ZONING BOARD OF APPEALS**

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ZBA 97-49
Petition of AT&T Wireless Services
978 Worcester Street

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, August 24, 1997 at 8 p.m. in the Selectmen's Meeting Room (Conference Room B) at the Town Hall, 525 Washington Street, Wellesley, on the petition of AT&T WIRELESS SERVICES requesting a Special Permit pursuant to the provisions of Section XXIIC and Section XXV of the Zoning Bylaw to install a 100 foot monopole with an 8 foot base, which will exceed the allowed height of 45 feet and will have less than the required setback of 113 feet from Morses Pond and from the left side property line at the rear of the property owned by DNS REALTY TRUST at 978 WORCESTER STREET, in a Business A District and a Water Supply Protection District.

On June 2, 1997, the petitioner filed a request for a hearing before this Authority and thereafter, due notice of the hearing to be held on June 19, 1997 was given by mailing and publication. Prior to the hearing, the petitioner requested a continuance to the Public Hearing to be held on July 24, 1997, which was granted by the Board of Appeals. Due notice of the hearing to be held on July 24, 1997 was given by mailing and publication. Prior to the July 24th Public Hearing, the petitioner again requested a continuance to the Public Hearing to be held on August 21, 1997, which was granted by the Board of Appeals. Due notice of the August 21st hearing was given by mailing and publication.

Presenting the case at the hearing was Thomas Schnorr, legal counsel from Palmer & Dodge, representing AT&T Wireless Services. Mr. Schnorr was accompanied by Blake Haskell, Site Acquisition Co-ordinator; Lee Fenster, Radio Frequency Engineer; and Guy DuPont, independent Site Acquisition Consultant.

Mr. Schnorr said that AT&T has started a new PCS (Personal Communication Services) Network, and has been working with the Town since last fall in an effort to site its facilities in line with the Town's planning goals. In regard to this site, they have been before the Planning Board twice, the Design Review Board twice, and the Wetlands Committee twice.

Mr. Schnorr explained that AT&T is a personal wireless service provider, governed by the new zoning bylaw. They are requesting a special permit to allow the monopole to exceed the allowed 45 feet in height and to allow the fall zone of the monopole to encroach onto the property of Morses Pond and Lee Foreign Motors.

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Mr. Haskell gave a brief history of AT&T Wireless Services. AT&T needs 5 sites in Wellesley of which 4 are on existing structures at the Wellesley Office Park, 62 Walnut Street, Mass Bay Community College and the Congregational Church. There is no existing structure in the Morses Pond area that is tall enough, so they have resorted to a 100 foot monopole, which is a galvanized steel structure, with a base of about 4 feet, tapering to 2 feet at the top. An array of 9 antennas, each of which will be 2 inches thick, 6 inches wide and 5 feet tall, will be installed at the top of the monopole. The structure has been designed to carry two antennas to provide for co-location.

The Board asked how long the antennas would be able to serve the required capacity. Mr. Fenster stated that AT&T looks at 20 year leases for sites, and a 20 year capacity for its installations. AT&T has low-powered small coverage area sites with an average radius of one mile. If the capacity demand is exceeded, they would install small microcell antennas at high density locations to expand capacity.

The Board asked why AT&T had not looked at the high area on Oak Street in Natick as a site. Mr. Fenster said that if the antenna was to shift to this location, it would shift the entire coverage area to the west, which would not provide overlapping coverage. Mr. Schnorr added that AT&T looks for sites in business or industrial zones, preferring not to go into residential areas.

The Board asked what control the Town or AT&T would have as to the equipment added to the monopole by a co-locator. Mr. Schnorr replied that a co-locator would have to go through the same permit process as AT&T has done, as any new equipment would exceed the 45 foot height limitation. AT&T will not allow microwave dishes on the tower.

Avrum Silverman, Edgemoor Avenue, asked if AT&T had permission to build on Stuart Road. Mr. Schnorr said that Stuart Road is a private way, which has never been accepted by the Town. The Town holds a utility easement on Stuart Road, which reserves to the owners use of the surface of the land not inconsistent with utility purposes. The utility purposes on Stuart Road are overhead electric lines and a water company easement for sewer and water lines below ground.

Mr. Schnorr stated that the Town Engineer's office had no problem with the AT&T installation. The monopole will sit on a 6 inch concrete slab which has no subsurface. AT&T has reviewed ways to rotate the equipment cabinet, and has devised plans to move the location of the base.

The Board asked how the tower would be supported. Mr. Haskell said that a caisson foundation, 5.5 feet wide and about 40 feet deep, will be augured out under the supervision of the Wetlands Committee. The monopole is self-supporting.

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Mr. Schnorr explained that the zoning bylaw requires a monopole to have setbacks equal to the height of the monopole plus 5 feet. The height of the proposed monopole is between 107 and 113 feet. The first location was 60 feet to the east, and would have been blocked almost entirely by the Wellesley Motor Inn. Although the monopole has been designed to withstand 90 mph winds, the abutters were unhappy with the location.

A second plan was devised to locate the monopole in the middle of the rear portion of the lot. At that location, it would not have encroached on any property line, but would not have had sufficient distance from Morses Pond. The Municipal Light Plant mandates a minimum 50 foot distance from any tall structure to the nearest light pole and 40 feet from the nearest line. The second plan would not have provided these distances.

In the present plan, the base has been shifted to a location in which the fall zone encroaches about 20 feet onto the left side property. AT&T does not believe this will cause an unreasonable public safety danger, which is the standard of the zoning bylaw. The location of the monopole is also constrained by wetlands considerations. The present location is far from Route 9 and is in the only non-residential zone in the area.

The Board asked about potential danger from earthquakes. Mr. Haskell responded that the Planning Board had asked that question also. The design requirements for the monopole are 5 times more stringent than what would be required in a Zone Two Seismic area.

The Board noted that the Planning Board and Design Review Board had misgivings regarding the monopole. Mr. DuPont said that the Design Review Board was not happy with the height. The height is necessary because there is nothing existing in the area that is tall enough to provide the signal they need. If existing sites were used, they would have to be multiple sites in residential areas, which AT&T feels is inappropriate.

Mr. Schnorr stated that when the easement issue regarding Stuart Street arose, they spoke to DNS Realty Trust as to relocation of the monopole base, and found that DNS Realty Trust would prefer the location to be shifted.

Mr. Schnorr presented a new plan to the Board in which the monopole remains in the same location, but the base is shifted to the east, so that no portion of the base will encroach onto Stuart Road, and a large tree will not have to be removed. They realize that they must return to the Wetlands Committee for a new Order of Conditions. The new location will require less compensatory storage, and will be moved farther away from the wetland area.

Mr. Schnorr concluded that the 45 foot height limitation must be exceeded to provide the technical services mandated by their FCC license. No less invasive alternatives exist as the antennas must be above the tree line, hills and buildings.

No other person present had any comment on the petition.

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Statement of Facts

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The subject location of the proposed 100 foot monopole is at the rear of 978 Worcester Street, property owned by DNS Realty Trust, in a Business A District and a Water Supply Protection District.

The petitioner is requesting a Special Permit to construct a 100 foot monopole, which will exceed the allowed height of 45 feet, and will not have the required 113 foot fall zone from both Morses Pond and the property at 962 Worcester Street, the eastern abutter.

The proposed 100 foot monopole will be constructed of galvanized steel and engineered to support a minimum of two wireless carriers. The antenna array will consist of nine panels, each panel approximately 54 inches by 2 inches by 6 inches, and will have a non-reflective fiberglass cover. The base will contain 1 equipment cabinet approximately 4 feet by 5 feet by 6 feet high. The monopole and equipment cabinet space will be enclosed by 8 foot chain-link fencing, which will be screened by appropriate landscaping.

The following written materials were submitted: Application and Information Survey; Memorandum in Support of Application dated May 22, 1997 from Thomas Schnorr; Letter of Permission dated May 1, 1997, signed by Louis Sicari, Trustee of the DNS Realty Trust; and photographs.

The following plans were submitted: Title Sheet (T-1) dated 11/12/96, revised 12/16/96/ revised 1/6/97, revised 2/24/97, revised 5/1/97, revised 6/6/97, drawn by Juniper Russell; Site Plan (R-1) dated 11/21/96, revised 12/16/96, revised 6/6/97, drawn by Ronald R. Turchi, Registered Land Surveyor; Partial Site Survey (R-2) dated 11/21/96, revised 12/16/96, revised 6/6/97, drawn by Ronald R. Turchi, Registered Land Surveyor; Site Plan (A-1) dated 11/21/96, revised 12/16/96, revised 1/6/97, revised 2/25/97, revised 5/14/97, revised 5/14/97, revised 6/6/97, revised 7/9/97, revised 8/20/97, drawn by Juniper T. Russell, Registered Architect; Typical Monopole Details (A-2) dated 11/21/96, revised 12/16/96, revised 1/6/97, revised 5/14/97, drawn by Juniper T. Russell, Registered Architect; Typical Concrete Slab Detail (A-3) dated 11/21/96, revised 12/16/96, revised 5/14/97 drawn by Juniper T. Russell, Registered Architect; Specifications (A-4) dated 12/16/97, revised 5/14/97; Site Plan (E-1) dated 12/16/96 drawn by Norman W. Murphy, Registered Professional Engineer; Detail Sheet (E-2) dated 12/16/96 drawn by Norman W. Murphy, Registered Professional Engineer; and Planting Plan dated April 28, 1997, drawn by David P. Berarducci, Registered Landscape Architect.

The Design Review Board held a Preliminary Review of the project on May 22, 1997, and a Final Review on June 5, 1997. The Design Review Board was of the opinion that the height had a negative impact on the community and was not in character with the neighborhood.

On May 15, 1997, the Wetlands Protection Committee issued an Order of Conditions (DEP 324-240) for the project. Subsequent to the change in the monopole location, the Wetlands

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Protection Committee issued an Order of Conditions (DEP 324-247) on August 14, 1997.

The Planning Board reviewed the petition on June 10, 1997, July 22, 1997, and on August 12, 1997. The Planning Board, although not completely satisfied with the antenna fall zones, particularly in relation to Lee Foreign Motors, voted to recommend approval of the modified application.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. The proposed 100 foot monopole will exceed the allowed height of 45 feet, and will have less than the required fall zone of 113 feet from both Morses Pond and the property at 962 Worcester Street (Lee Foreign Motors).

This Authority has made the following findings:

1. The requested installation is essential to the proper functioning of the telecommunication services to be provided by the device at 978 Worcester Street and an alternative installation meeting the 45 foot height restriction is not workable. AT&T uses a low-powered radio signal with a radius of 1 mile. The antennas must be at a height sufficient to provide a signal unobstructed by trees, hills or buildings. There is no building or structure in the business zoned area of Route 9 within two miles of the Congregational Church, the location of the interfacing antenna, that has a height to which an antenna could be attached. In order for the radius of the antenna installed at the Church to intersect with the last antenna in Wellesley, the antenna must be installed on the monopole at the proposed location at the proposed height.
2. The requested installation will not adversely impact adjacent property adversely. The base of the antenna will be screened by landscaping. The monopole will be constructed of galvanized steel of a blue-grey color to decrease visibility and will be located at the rear of the premises, about 380 feet from Route 9.
3. The center point of the base of the monopole is not set back from the property lines of the lot the required 113 feet, as it will encroach on both Morses Pond and the property at 962 Worcester Street. It is the opinion of this Authority that due to the installation of the monopole in the proposed caisson at a depth of 40 feet, and the ability of the monopole to withstand winds of 90 mph, the monopole would not present any public safety danger to either Morses Pond or the 962 Worcester Street property.
4. The overall height exceeds 45 feet as the monopole will have a height of 100 feet. The petitioner has demonstrated to the satisfaction of the Board that the requested height is essential to the proper functioning of the telecommunication services to be provided by the device at the proposed location, and that an alternative installation meeting the

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requirements of Section XXIIC of the Zoning Bylaw would not be less invasive and would not be workable.

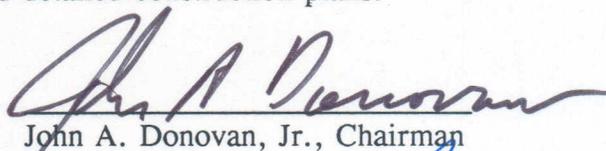
5. The report of the Design Review Board has been received, and although the Design Review Board is of the opinion that the height would negatively impact the community, and is not in character with the neighborhood, this Authority is of the opinion that the proposed location of the monopole, in the Business A District on Route 9, and not a residential neighborhood, is in keeping with its surroundings. This area on Route 9 area has many large illuminated signs, and the rear of the abutting property contains many tall light stanchions.

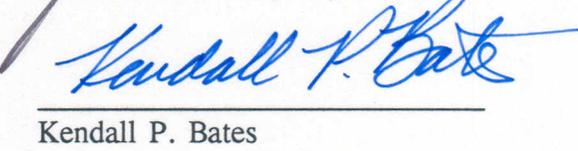
Therefore, a Special Permit is hereby granted, as voted unanimously by this Authority at the Public Hearing, for the installation of a 100 foot monopole with antennas, which will have less than the required fall zone of 113 feet from Morses Pond and the property at 962 Worcester Street, subject to the conditions in Addendum A.

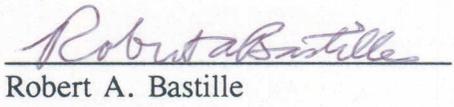
The Inspector of Buildings is hereby authorized to issue a permit for the construction upon receipt and approval of a building application and detailed construction plans.

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.

cc: Planning Board
Wetlands Protection Committee
David J. Columbo, WMLP
Inspector of Buildings


John A. Donovan, Jr., Chairman


Kendall P. Bates


Robert A. Bastille

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ADDENDUM A

1. The proposed monopole, base and equipment cabinet shall be located as shown on Site Plan (A-1) dated 8/20/97 and constructed in accordance with the most recent revisions on all submitted plans.
2. Compliance with all requirements of the Municipal Light Plan, including but not limited to the requirements that the proposed monopole shall be located no closer than 50 feet to any WMIP joint owned utility pole, and no closer than 40 feet of any high voltage right-of-way.
3. Compliance with the Order of Conditions (DEP 324-247) issued by the Wetlands Protection Committee on August 14, 1997, and with any future amendments to this Order, and to any new Order of Conditions to be issued in the future.
4. The monopole shall provide space for at least one co-locator.
5. Any additions, including equipment cabinets, antennas and/or devices required by a co-locator shall require review by the Design Review Board, the Wetlands Protection Committee, and a special permit from the Board of Appeals prior to the issuance of a building permit.
6. There shall be no use of barbed wire fencing.

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