



TOWN OF HINGHAM

Board of Appeals

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NOTICE OF DECISION SPECIAL PERMIT

IN THE MATTER OF:

Applicant: New Cingular Wireless PCS, LLC d/b/a AT&T
550 Cochituate Road
Framingham, MA 01701

Property: 0 Main Street, Hingham, MA 02043 (also known as 378 Main Street)

Deed Reference: Plymouth County Registry of Deeds, Book 239, Page 121

Plan References: "AT&T – Site Number: MA2501 – Site Name: Hingham Main Street,"
Plan Set, prepared by TEP NORTHEAST, 45 Beechwood Drive, North
Andover, MA 01845 and SAI, 12 Industrial Way, Salem, NH 03079,
revised through August 26, 2024 (15 Sheets).

Radio Frequency Analysis Report, prepared by C Squared Systems, LLC,
65 Dartmouth Drive, Auburn, NH 03032 (13 Sheets), dated February 27,
2024.

Calculated Radio Frequency Emissions Report, prepared by C Squared
Systems, LLC, 65 Dartmouth Drive, Auburn, NH 03032 (11 Sheets),
dated March 6, 2024.

Photographic Simulation Package, prepared by Virtual Site Simulations,
LLC, 24 Salt Pond Road, Suite 3, South Kingstown, RI, 02879 (11 Sheets),
dated June 12, 2024.

SUMMARY OF PROCEEDINGS

This matter came before the Board of Appeals (the "Board") on the application of New Cingular Wireless PCS, LLC d/b/a AT&T (the "Applicant") for a Special Permit A1 under Section V-E 4(b) of the Zoning By-Law (the "By-Law"), and such other relief as necessary, for a personal wireless facility to be installed on and within a non-residential Host Structure in the Residence B District.

The Board opened a duly noticed public hearing on the application at a meeting held remotely on October 15, 2024 via Zoom as an alternate means of public access pursuant to Chapter 2 of the Acts of 2023 and all other applicable laws temporarily amending certain provisions of the Open Meeting Law. The Board panel consisted of Robyn S. Maguire, Chair, Member, Jed Ruccio, and Michael Mercurio, Associate Member. The Applicant's representative, Edward D. Pare, Jr. of Brown Rudnick LLP, made the presentation of this application. The Board was assisted in its review by Special Real Estate Counsel, Susan C. Murphy, Esq., of Dain, Torpy, Le Ray, Wiest & Garner, P.C. At the conclusion of the application review, the Board voted unanimously to grant the requested Special Permit A1 with conditions set forth below.

Throughout its deliberations, the Board was mindful of the statements of the Applicant and the comments of the general public, all as made or received at the public hearing.

BACKGROUND AND DISCUSSION

The Applicant is proposing to install a Personal Wireless Service Facility within the Hingham Congregational Church, located on the corners of Main and Pleasant Street.

The Town of Hingham's Zoning By-Law provides in §V-E 4(b) that Personal Wireless Service Facilities may be permitted in all zoning districts upon issuance of a Special Permit A1, provided the facility is either completely concealed within or installed on a non-residential Host Structure. The proposed AT&T Personal Wireless Service Facility meets this standard as it will be installed inside the steeple within the Congregational Church, with vents being located in the upper rear windows, located at 0 Main Street / 378 Main Street in Residence District B.

AT&T will install its antennas inside the steeple of the Church. The Church has previously hosted a wireless facility of another wireless communication service provider. AT&T's installation is substantially similar to the prior wireless facility. The louvers in the steeple were previously replaced with radio frequency friendly materials. AT&T will replace the railing and surrounding materials as necessary with radio frequency friendly FRP material which will match the color, design and texture of the replaced material. AT&T's equipment cabinets will be located in the existing equipment room inside the Church attic. The only visible elements will be the intake and exhaust vents inserted into the existing windows located at the rear of the Church which allow for the cooling and venting of the equipment room. Similar to the prior wireless facility, AT&T will replace the existing GPS antenna which will be mounted to the rear side of the clock tower and painted to match.

Members of the public shared concerns about public health and safety as it relates to radiation that may be emitted from the cell installations. Attorney Pare responded that all Federal Communications Commission (“FCC”) licensees are required to be compliant with FCC safety standards; because federal law preempts local standards, the Town doesn’t have jurisdiction over such health concerns. Chair Maguire stated that the Zoning Board could not address these concerns, as the issue is covered by Federal FCC standards. Attorney Murphy confirmed that FCC rules govern cellular output limits and that local permitting agencies have no authority to further regulate cell facilities with respect to safety concerns.

FINDINGS

Based on the information submitted and presented during the hearing, and the deliberations and discussions of the Board during the hearing, the Board made the following findings in accordance with the Special Permit Approval Criteria under Section I-H, 2 and Section V-E 4(b).

- a. Use of the site is in harmony with the general purpose and intent of the Zoning By-Law.** The proposed Personal Wireless Service Facility is allowed in Residence District B under a Special Permit A1, and the use is controlled and regulated as not to adversely affect the health, safety and welfare of the neighbors or Town generally. The installation of the Personal Wireless Service Facility will provide necessary cell service to the Town.
- b. The proposed use complies with the purposes and the standards of the relevant specific sections of the By-Law.** The Personal Wireless Service Facility as proposed complies with the sections §§§§ V-E. 4(b), V-E.8, V-E.9 and V- E.10 of §V-E.
- c. The specific site is an appropriate location for such use, structure, or condition, compatible with the characteristics of the surrounding area.** The site is located in Residence District B. The Site previously approved was a wireless communications facility for another provider of wireless services. The Personal Wireless Service Facility will not be visible outside of the Church because all of the antennas and equipment
- d. The use as developed and operated will create positive impacts or potential adverse impacts will be mitigated.** Additional network coverage will create positive impacts for the residents, visitors and businesses in the Town of Hingham. Enhanced wireless coverage will also improve the performance of other AT&T macro sites in and near the Town of Hingham by offloading some network traffic to this Facility. Emergency communications and communications for public safety officials will improve.
- e. There will be no nuisance or serious hazard to vehicles or pedestrians.** The Facility is unmanned and will have no negative effects on the adjoining lots. There is no equipment installed on the ground at the Site. The Facility will comply with all applicable building code requirements and all applicable FCC requirements related to emissions and operations.

- f. Adequate and appropriate facilities exist or will be provided for the proper operation of the proposed use.** The Facility uses standard electrical service for power. AT&T will also install fiber for the Facility from available sources. No other facilities or Town services are required, such as water, sewer or other services.
- g. The proposed Project meets accepted design standards and criteria for the functional design of facilities, structures, stormwater management, and site construction.** The Facility does not require any new structure and does not introduce any impervious surfaces, so storm water management is not impacted by the Facility. The Facility will be installed within the Church. The Facility will comply with all applicable building codes and design standards.

DECISION

Upon a motion made by Jed Ruccio and seconded by Michael Mercurio, the Board voted unanimously to GRANT the application of New Cingular Wireless PCS d/b/a AT&T for a Special Permit A1 under § V-E 4(b) of the Zoning By-Law, and such other relief as necessary, to install a Personal Wireless Service Facility at 0 Main Street (within the steeple of the Hingham Congregational Church) located in Residence District A, subject to the following conditions:

1. The work shall be completed in accordance with the approved plans, applicable provisions of the Zoning By-Law, and the representations made during the public hearing.
2. The Personal Wireless Service provider shall continuously insure the Personal Wireless Service Facilities against damages to persons or property in an amount established by the Board based upon the nature and extent of the proposed Facility. On an annual basis, the Personal Wireless Service provider shall provide a Certificate of Insurance, in which the Town shall be specifically listed as an additional insured, to the Town Building Commissioner.
3. Unless an earlier expiration date is specified by the Board of Appeals in the Special Permit, all Special Permits for Distributed Antenna Systems shall expire automatically ten years from the date of issuance. Prior to expiration the Applicant may apply for successive ten-year renewals, subject to a public hearing process. In determining whether the Special Permit shall be renewed, the Board shall take the Hingham Zoning By-Law into consideration whether there then exists any structures and/or technology available to the Applicant which would enable the Applicant to provide functionally equivalent services in a less intrusive manner.
4. Towers and/or Personal Wireless Service Facilities must at all times be maintained in good and safe condition. The Personal Wireless Service provider shall arrange for a professional structural engineer licensed in Massachusetts to review the Tower and/or Personal Wireless Service Facilities and any accessory buildings every five (5) years to certify these structures and Facilities are in sound condition. A report of the engineer's findings shall be filed with the Town Building Commissioner at the completion of construction and by February 28, of the fifth year of operation of the Facility. All costs for the inspection shall be borne by the Applicant. Should the

engineer deem the structure or Facility not to be sound, the owner of the Facility shall submit to the Town, within ten (10) business days, a plan to remedy the structural defect(s). Upon approval of the plan by the Building Commissioner, the remediation plan shall be completed as soon as is reasonably possible.

For the Board of Appeals,



Robyn S. Maguire, Acting Chair
October 29, 2024

This Decision shall not become effective until (i) the Town Clerk has certified on a copy of this decision that twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed or that if such an appeal has been filed, that it has been dismissed or denied, and that (ii): a copy thereof has been duly recorded in the Plymouth County Registry of Deeds and indexed in the grantor index under the name of the owner of record.