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TOWN OF ASHLAND MASSACHUSETTS  
OFFICE OF  
ZONING BOARD OF APPEALS  
101 MAIN STREET

John Trefethen, Chairman

TEL: (508) 881-0100



2018 00139017

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Special Permit SP1-19  
400 Cedar Street  
Map No. 29, Parcel No. 132  
August 14, 2018  
11569-356

At its meeting of August 14, 2018, the Zoning Board of Appeals (the "Board") voted 3-0 to grant a Special Permit to extend a pre-existing non-conforming use to upgrade and install wireless telecommunication communications equipment (the "Project") at 400 Cedar Street (the "Locus").

Centerline Communications, LLC, applicant, applied for a Special Permit under Chapter 282 Sections 3.3.2, 3.3.3, 6.4, and 9.3 of the Ashland By-laws to allow for the upgrading of wireless communications equipment by installing three (3) new antennas, six (6) remote radio heads, three (3) hybrid cables, and one (1) cabinet. The Locus is located at 400 Cedar Street in the Residential A Zoning District. A public hearing was held on July 24<sup>th</sup> and August 14<sup>th</sup>, 2018. *owner: Town of Ashland*

The Project shall be constructed and operated in accordance with the terms and conditions hereinafter specified.

**I. Applicant:**

Centerline Communications, LLC, 95 Ryan Drive, Suite 1, Raynham, MA 02767

**II. Application:**

- a. The application packet for the Special Permit stamped in at the Town Clerk's Office on July 3, 2018 contained:
  - i. Application for Special Permit

- ii. Memo dated June 27, 2018 from Centerline Communications, LLC of Raynham, MA
- iii. Waiver request letter dated June 27, 2018 from Centerline Communications, LLC
- iv. Letter granting permission for the Applicant to submit the application dated June 18, 2018 from Doug Small, Director of Public Works, Ashland DPW (as landowner)
- v. Peer review approval letter dated June 15, 2018 from Gregory Eldridge, Haley and Ward, Inc. of Maynard, MA
- vi. Letter of authorization for Centerline Communications, LLC to act as the agent dated June 27, 2018 from Richard Duddy, Sprint Real Estate Site Development Manager
- vii. Radio Frequency Emissions Analysis Report dated June 20, 2018 from Ryan McManus and Scott Heffernan, Centerline Communication, LLC
- viii. Planset titled "Site Number BS23XC490" with Sheet T-1 – "Title Sheet", Sheet SP-1 – "Outline Specifications", Sheet SP-2 – "Outline Specifications", Sheet SP-3 – "Outline Specifications", Sheet A-1 – "Compound & Equipment Plan", Sheet A-2 – Elevation & Antenna Plans", Sheet A-3 – "RF Data Sheet", Sheet A-4 – "RAN Wiring Diagrams", Sheet A-5 – "Equipment Details", Sheet A-6 – "Equipment Details", Sheet S-1 – "Structural Details", Sheet E-1 – "One-Line Diagram & PPC Details", and Sheet E-2 – "Grounding Details & Notes", prepared by Chappell Engineering Associates, LLC, Marlborough, MA, dated September 30, 2017 and revised through June 14, 2018, signed and stamped by David A. Chappell, Registered Professional Engineer Number 34706
- ix. Abutters List from the Ashland Assessor's Office dated July 5, 2018
  - x. Abutters Report from Holliston, MA dated June 29, 2018
- b. Additional materials submitted after the application was submitted but before the July 24, 2018 Public Hearing:
  - i. Letter to the ZBA dated July 16, 2018 from Monique Macken, 386 Cedar Street, Ashland, MA
  - ii. Amended waiver letter dated July 20, 2018 from Centerline Communications, LLC
  - iii. Memo to the ZBA dated July 20, 2018, from Katherine Feodoroff and Adam Costa, Mead, Talerman, & Costa, LLC, Newburyport, MA

### III. Hearing:

A properly noticed public hearing was opened on July 24, 2018. The legal notice was published in the MetroWest Daily News on July 9<sup>th</sup> and July 16<sup>th</sup> of 2018 and read as follows:

*Sprint Spectrum Realty Company, L.P., applicant, has applied for a Special Permit under Chapter 282 Section 3.3, and any other applicable section of the zoning by-laws, to extend a pre-existing and non-conforming use by installing 3 new antennas, 6 remote radio heads, 3 hybrid cables and 1 cabinet on the Town owned Cedar Street water tower. The non-conformity is triggered by the need to mount the wireless equipment within 300 feet of a residential building in a residential zoning district. The property, Map 29 Lot 132, is located at 400 Cedar Street in the Residential A Zoning District. A public hearing will be held on July 24<sup>th</sup>, 2018 at 7:20 PM in the Board of Selectmen's Room located at Ashland Town Hall, 101 Main Street, Ashland, MA.*

*Parties wishing to be heard on this matter should submit comments to the Zoning Board of Appeals ahead of time and/or appear at the time and place indicated above.*

*Materials may be viewed at Town Hall during normal business hours or at [www.ashlandmass.com/543/projects](http://www.ashlandmass.com/543/projects).*

Sitting on the hearing were John Trefethen, Chairman; Brian Forestal, Member, and Smriti Choudhury, Associate Member. The hearing was opened on July 24<sup>th</sup>, continued to August 14<sup>th</sup>, and closed and voted upon on August 14, 2018.

The Applicant stated that Sprint Spectrum Realty Company, L. P., is applying for, through its agent Centerline Communications, LLC, a Special Permit to upgrade an existing wireless communication facility at 400 Cedar Street. The existing wireless facility is mounted on the town-owned water tank with additional accessory structures on the ground of the same property.

The Applicant stated that the construction/modification would take 3-5 days, there would be no increase in height of any of the equipment on the water tower, and there would be no increase in the number of cabinets on the ground. The Applicant further stated that, in preparation of painting

the water tank, Sprint would assist the Town in painting the water tower by bringing in a “COW” (Cell On Wheels) and removing equipment as needed.

The Board and the Applicant discussed the relevance of the “The Spectrum Act,” also known as Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012 (Public Law 112-96). This Federal law states that a State or local government may not deny, and shall approve, any eligible facilities request for a modification on an existing wireless communication facility that does not substantially change the physical dimensions.

There was some concern from the neighborhood residents about possible health effects of more wireless equipment and the RF (Radio Frequency) emissions, and the state of the appearance of the water tower.

#### **IV. Findings:**

- a. The Locus at 400 Cedar Street, identified as Parcel 132 on Map 29, is 39,185 square feet in area and is located in the Residential A Zoning District.
- b. There is a small shed to the north of the water tank that has the address 396 Cedar Street that is located on the same parcel as the water tank. There is a single family home located on a separate parcel directly to the east that also has the address of 396 Cedar Street. This parcel, Map #29, Parcel #131, is not relevant to this decision.
- c. The wireless communication facility is located within 300 feet of a residential building in a residential zoning district.
  - i. This Sprint-owned wireless communications facility was originally approved in 2000 (Bk. 31093, Pg. 012) 10 years before the Bylaw found in Chapter 282 Section 6.4.2 4.a was passed.
  - ii. This use is therefore classified as a pre-existing non-conforming use. This makes the application a matter of the ZBA, not the Planning Board under Chapter 282 Section 6.4.
- d. Sprint Spectrum Realty Company, L. P. has authorized Centerline Communications, LLC to act as the agent for this application.
- e. The Applicant is seeking a Special Permit to upgrade existing equipment and install new equipment. The work involves three (3) new antennas, six (6) remote radio heads, three (3) hybrid cables, and work in one (1) cabinet.

- f. The proposed project does comply with the criteria as stated in The Spectrum Act. Therefore, the Board is compelled to grant the Special Permit.
- g. In reference to the criteria for granting a Special Permit in Chapter 282 § 3.3.2 and 3.3.3 of the Ashland By-laws, the Board found that
  - i. the proposal does not substantially increase the total output of the RF emissions,
  - ii. while there will be more wireless communication equipment than is currently installed, the newly installed equipment will not extend outside the dimensions of the water tower or the currently existing wireless equipment, and
  - iii. the proposed work would not be substantially more detrimental than the existing non-conforming use to the neighborhood.
- h. The Applicant has been granted waivers for the following required application documents: Elevations Filing, Design Filing, Landscape Plan, Photo Simulations, and the Noise Filing.

**V. Decision and Conditions:**

In accordance with Chapter 282 Sections 3.3.2, 3.3.3, 6.4, and 9.3 of the Ashland Zoning Bylaws, the Board by unanimous vote grants Centerline Communications, LLC, as the agent for Sprint Spectrum Realty L. P., a Special Permit to extend the pre-existing non-conforming use of a wireless communications facility at 400 Cedar Street, subject to the following conditions:

- a. The Applicant shall comply with any and all other relevant Bylaws.
- b. The Applicant shall comply with any requirements of the Building Department and the Department of Public Works.
- c. The Applicant shall supply the Planning Department and the Building Department with a construction schedule, including a contact for the on-site construction supervisor, before any Building Permits are granted.
- d. Hours of work shall be limited to between the hours of 7 AM to 7 PM.
- e. The Applicant shall comply with Chapter 204 of the Ashland Bylaws.
- f. The Applicant shall be responsible for any needed police details from this proposed work.
- g. The Applicant shall make good effort to reduce noise and other impacts to the surrounding neighborhood during construction.
- h. The Applicant shall submit to the Planning Department an annual certification, by a certified technician, that the Radio Frequency emissions meet Federal standards.

- i. The Applicant has offered, and the Board accepts, that the Applicant shall provide a Cell on Wheels during the time period the Town undertakes to paint and repair the water tank. The Applicant shall remove its equipment and pay for and place the Cell on Wheels at no cost to the Town.
- j. This approval shall be recorded at the South Middlesex Registry of Deeds. This Special Permit Approval shall not take effect until a copy of this Approval bearing the certification of the Town Clerk that twenty (20) days have elapsed after the Approval has been filed with the Town Clerk's Office that no appeal taken or that if such appeal has been filed, that it has been dismissed or denied and the Approval is recorded. A copy of the recorded document bearing the date of recording and the book and page number shall be delivered to both the Planning Department and the Building Department before any building permits are issued.

John Trefethen voted to approve the Application.

Brian Forestal voted to approve the Application.


Smriti Choudhury voted to approve the Application.

Pursuant to Section 9.4.17 of the Zoning Bylaw, any appeal of this decision shall be made in accordance with M.G.L. c. 40A, § 17 within 20 days of the date this decision was stamped by the Town Clerk's Office.

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**Town of Ashland Zoning Board of Appeals**

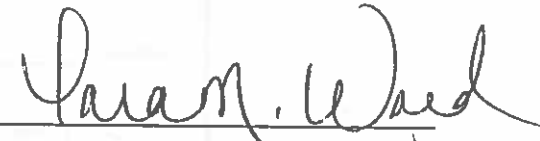
By:   
John Trefethen, Chair

By:   
Brian Forestal, Member

By:   
Smriti Choudhury, Associate Member

Filed with the Town Clerk on:

Date: August 15, 2018

  
Tara M. Ward, Town Clerk

I HEREBY CERTIFY THAT TWENTY DAYS HAVE ELAPSED FROM THE DATE THIS DECISION WAS FILED IN THE TOWN CLERK'S OFFICE AND THAT NO APPEAL HAS BEEN FILED.

Date: September 10, 2018

  
Tara M. Ward, Town Clerk