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Town of Ashland
Planning Department
101 Main St.
Ashland, MA 01721
508.881.0101
Ashlandmass.com/193/Planning

Application for Planning Board Approval/Permit

Note: Application must be complete, with a certified plot plan and all application fees to be accepted.

Property Information:

Street Address: 34 Albert Ray Drive

Zoning District: Residential A (RA) Overlay District: _____

Assessor's Map: 9 Lot: 173 Deed Book: 30867 Page: 381

Current Property Owner: Crown Atlantic Company LLC

Permit/Approval Sought:

Special Permit (§9.3) Special Permit Amendment/Modification Design Plan Review (§9.6)

Site Plan Review (§9.4) Site Plan Modification Scenic Road Permit (Ch. 249 §20)

Earth Removal Permit (Ch. 242 §3) Site Alteration Special Permit (§5.8)

Subdivision (Include Subdivision Application Form) Wireless Communication Facilities (§6.4)

Use Type: Residential: Commercial: Industrial: Mixed Use:

Applicant Information: Owner: _____ Tenant: Prospective Purchaser/Tenant: _____

Name: Cellco Partnership d/b/a Verizon Wireless

Address: c/o Duval & Klasnick LLC, 210 Broadway, Suite 204, Lynnfield, MA 01940

Phone: (781) 873-0021 Email: dklasnick@dkt-legal.com

Agent's Name: Daniel D. Klasnick, Esquire

Agent's Address: 210 Broadway, Suite 204, Lynnfield, MA 01940

Agent's Phone: (781) 873-0021 Agent's Email: dklasnick@dkt-legal.com

Additional Information:

Are all real estate taxes and other assessments to the Town current?: Yes

Is the parcel on a scenic road?: No Is the parcel in a flood plain?: No

Is the parcel within 100 feet of a wetland or 200 feet of a river: No

Is this an amendment to a previously issued Special Permit? (attach approved permit): Yes

Date structure(s) built?: 1984



Description of the Relief Sought: (attach additional pages if needed)

Modify existing wireless facility to consist of the removal of 3 antennas and replacing of 6 antennas, replace 3 remote radio heads, add 3 remote radio heads and 1 OVP on existing 100' telecommunications tower. The antennas will be located at the existing centerline height.

What specific zoning bylaws and/or Special Permit types are relevant to this application?:
Modification to Special Permit (with all rights reserved) pursuant to Section 6.4

Wireless Communications Facilities for an eligible facility modification pursuant to 47 U.S.C. 1455 and 47 C.F.R. 1.6100

Benefits of Project:

Improved network performance and enhanced wireless service in this area of the Town of Ashland.

Existing use and condition of the property and surrounding neighborhood: (Please list all non-conformities.)

Existing 100 foot monopole tower and residences.

Attach Building Permit Denial letter if applicable.

By signing below you assert this application is complete and accurate to the best of your knowledge:

Signatures:

Applicant/Agent: [Signature] Applicant's Name: Cellco Partnership d/b/a Verizon Wireless

Agent's Relationship to Applicant: Attorney Firm: Duval & Klasnick LLC

Owner: See Attached Authorization Letter Owner's Name: Crown Atlantic Company LLC

Note: If the applicant is not the owner, please have the owner sign above or submit a letter of permission with the application.



Property Record Card

Parcel ID: 014/009.0-0173-0000.0 MAP: 009.0 BLOCK: 0173 LOT: 0000.0 Parcel Address: 34 ALBERT RAY DR FY: 2019

PARCEL INFORMATION
 Owner: CROWN ATLANTIC COMPANY LLC
 Use-Code: 431
 Tax Class: T
 Tot Fin Area: 0
 Tot Land Area: 0.690
 Sewer: Exempt-B/L% 0/0

Book: 30867
 Page: 0381
 Cert/Doc: 216758/112402 3
 Comm-B/L% 0/0

Road Type: T
 Rd Condition: P
 Traffic: M
 Water: PS
 Sewer: SW
 Indust-B/L% 100/100

Sale Price: 71,312
 Sale Date: 11/19/1999
 Sale Type: L
 Sale Valid: B
 Grantor: CELCO PARTNERSHIP
 Resid-B/L% 0/0

Inspect Date:
 Meas Date:
 Entrance:
 Collect Id:
 Inspect Reas:
 Open Sp-B/L%

LAND INFORMATION

Seg	Type	Code	Method	Sq-Ft	Acres	Infl.-VIN	Value	Class
1	P	431	S	30060	0.690	N	278,908	

DETACHED STRUCTURE INFORMATION

Str	Unit	Msr-1	Msr-2	E-YR-Blt	Grade	Cond	%Good	P/F/E/R	Cost
OT	C	1		1984	A	A	/100/100/100		35,000
SE	S	240		2003	G	G	//100/69		48,000

VALUATION INFORMATION

Current Total:	Bldg:	Land:	MktLnd:	Total:
361,900	83,000	278,900	278,900	278,900
Prior Total:	Bldg:	Land:	MktLnd:	Total:
339,500	83,000	256,500	256,500	256,500

Sketch

No Sketch
 Available

Photo

No Picture
 Available

Daniel D. Klasnick
Licensed in Massachusetts and New Hampshire
dklasnick@dkp-law.com

September 29, 2019

Town of Ashland, Planning Board
Ashland Town Hall
101 Main Street
Ashland, Massachusetts 01721

RE: Application for Determination of Eligible Facilities Request pursuant to 47 U.S.C. §1455 and 47 C.F.R. §1.6100 or alternatively *with all rights reserved* a Special Permit to Modify a Wireless Communications Facility

Property: 34 Albert Ray Drive, Ashland, MA
Map 9, Parcel 173 (the "Property")

Applicant: Cellco Partnership d/b/a Verizon Wireless (the "Applicant")

Property Owner: Crown Atlantic Company LLC, 12 Gill Street, Suite #5800, Woburn, MA 01801

Dear Honorable Board Members:

Duval & Klasnick LLC represents Crown Atlantic Company LLC in connection with an application for Determination of Eligible Facilities Request pursuant to 47 U.S.C. §1455 and 47 C.F.R. §1.6100 or alternatively a special permit (*with all rights reserved*) for Cellco Partnership d/b/a Verizon Wireless from the Town of Ashland Planning Board (the "Board"). In its application, Applicant seeks a special permit (*with all rights reserved*) for a qualifying request pursuant to 47 U.S.C. §1455 and 47 C.F.R. §1.6100 to modify an existing Wireless Communications Facility ("WCF") located at 34 Albert Ray Drive, as more fully described herein (the "Project").

47 U.S. Code §1455(a) and 47 C.F.R. §1.6100(b) builds on the existing legal framework for wireless facilities by requiring permitting authorities to approve an eligible facilities request in an effort to streamline "the process for siting of a wireless facility by preempting the ability of State and local authorities to delay collocation of, removal of, and replacement of wireless transmission equipment."¹ "Collocation" is defined as "the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or

¹ 158 Cong. Rec. E237 (daily ed. Feb. 24, 2012) (statement of Rep. Upton).

receiving radio frequency signals for communications purposes.” The term “eligible support structure” means any structure that is a “tower” or “base station.” The term “eligible facilities request” includes any request for modification of an existing wireless tower or base station that involves— (i) collocation of new transmission equipment; (ii) removal of transmission equipment; or (iii) replacement of transmission equipment.²

The Federal Communications Commission also adopted rules that require local review subject to Section 6409(a) be completed within sixty (60) days. A Section 6409(a) request will be “deemed granted” if not approved within the sixty (60) day period.

Applicant holds an interest in the Property by virtue of a Site Lease Agreement with the property owner/tower owner and operator. Applicant is the current holder and operator of a WCF at the Property pursuant to a Special Permit Decision, filed by the Ashland Zoning Board of Appeals on June 20, 2012 and recorded with the Middlesex County District Registry of Deeds in Book 59504, Page 20 (See Exhibit 1 - Special Permit).

The Project will consist of removing three (3) existing antennas and replacing six (6) new wireless communication antennas, replace three (3) remote radio heads, one (1) OVP and add three (3) remote radio heads on the existing antenna mount on an existing 100’ Wireless Communications Facility Tower located at the Property. The antennas will be located at the existing centerline height of 102’. The exact specifications and locations of equipment associated with the Project and equipment already existing on the Property is more fully described on the plans included with this correspondence and incorporated herein by reference (See Exhibit 2 - the “Plans”).

The Property is located in the Residential A (RA) zone. The Board is therefore vested with the authority to grant the permissions sought herein by Section 6.4 et seq. of the Bylaws.

I. Background

The Applicant is licensed by the Federal Communications Commission to construct and operate a wireless telecommunications network in various markets throughout the country, including the Commonwealth of Massachusetts and in particular the Town of Ashland (See Exhibit 3 – FCC Licenses). The Applicant is in the process of upgrading its 4G LTE, high speed data network to serve the entire Commonwealth. In its design, Applicant has established the objective of providing seamless coverage to its customers throughout its coverage area. The radio transmitting and receiving facilities operate on a line of site basis, requiring a clear path from the facility to the user on the ground. This dynamic requires the antennas to be located above the tree line, and in a location where the signal is not obstructed or degraded by other buildings or by topographical features such as hills.

² 47 U.S.C. § 1455(a)(2) and §1.6100(b)(3)

II. RF Coverage Determination

The Applicant has performed a study of network service for the Town of Ashland and from the Property. The Applicant has determined that the modification of wireless communication equipment located on the Property will provide the enhanced 4G coverage to the targeted sections of the Town of Ashland and the immediately surrounding area if the Applicant's antennas are located at the requested height and location shown on the Plans.

III. The Project

As detailed on the Plans, The Project will consist of removing three (3) existing antennas and replacing six (6) new wireless communication antennas, replace three (3) remote radio heads, one (1) OVP and add three (3) remote radio heads on the existing antenna on an existing 100' Wireless Communications Facility Tower located at the Property. The antennas will be located at the existing centerline height of 102'. The exact specifications and locations of equipment associated with the Project and equipment already existing on the Property are more fully described on the plans included with this correspondence and incorporated herein by reference. (See Exhibits 4 & 5 - the "Structural" and the "Letter of Authorization").

Following installation, the Project will be unmanned and will continue to only require monthly inspections by maintenance personnel to ensure that it remains in good working order. The only utilities required to operate the Project are standard electrical power and telephone service. The Project will comply with all applicable local, state and federal safety codes, including but not limited to all regulations promulgated by the Federal Communications Commission.

IV. Legal Analysis

6.4.1 Purpose and Intent. This Section is designed to provide guidance for the installation of new towers, antennas and other communication structures for all types of Wireless Communications Facilities (WCF) within the Town of Ashland or for the replacement, expansion, upgrade or modification of said equipment. The By-Law will establish standards to protect the interests of the general public, provide for public safety, preserve character and property values, and minimize visual and environmental impacts throughout the town as well as adjacent towns and especially on Residential Districts. The Bylaw enables the review and approval of Wireless Communications Facilities by the Town's Planning Board, acting as the Special Permit Granting Authority, in keeping with the Town's existing bylaws and historic development patterns, including the size and spacing of structures and open spaces. This bylaw is intended to be used in conjunction with other regulations adopted by the Town, including historic district regulations, site plan review and other local bylaws designed to preserve the character of the town, preserve quality of life, and other local bylaws designed to preserve the character of the town, preserve quality of life, and encourage appropriate land use, environmental protection, and provision of adequate infrastructure development in Ashland.

6.4.2. District Regulations.

1. New or modified WCFs in Ashland's zoning districts shall require a special permit from the SPGA. These include ground mounts, building (roof or side) mounts, and WCFs mounted on other existing structures. These also include replacement, expansion, upgrade, modification, or significant change in appearance of a WCF such as an extension in height or width; addition of cells, antennae, or panels; upgrade of technology; or a new replacement of a facility. The Applicant shall submit documentation of the legal right, physical need, and structural capacity to install and/ or use the proposed facility mount at the time of application of the special permit.
2. In commercial and industrial zoning districts, WCFs are allowed in all areas, subject to the exceptions listed below.
3. In residential zoning districts, WCFs are not allowed in any areas unless the Applicant can show that the proposed location is necessary to close a significant gap in wireless service AND no feasible alternative, location, or technology exists, subject to the exceptions listed below.

The Applicant was previously granted a Special Permit to collocate on the existing site. The proposed equipment modifications are a continuation of this operation and are intrinsic to the Applicant's ability to provide necessary communications services. The Applicant respectfully submits the proposed modifications satisfy the standards in accordance with an eligible facilities request pursuant to 47 U.S.C. §1455 and 47 C.F.R. §1.6100. The Federal Communications Commission adopted rules in 2014 clarifying many of the Section 6409(a)'s terms, such as "substantial change," in an effort to advance Congress' goal of facilitating rapid deployment.³

4. Under no conditions will the SPGA allow a new or modified WCF located:
 - a. within 300 feet of a residential building in Ashland's residential zoning districts;

The Applicant requests a waiver of this provision as its enforcement would prohibit the Applicant's ability to continue to provide required and competitive communications services from this previously permitted WCF.

- b. within 300 feet of a building in Ashland licensed by the Massachusetts Department of Elementary and Secondary Education to educate persons under the age of 18; and
- c. on land for which there is a permanent conservation restriction as authorized

³ See Accelerating of Broadband Deployment by Improving Wireless Facilities Siting Policies, Report and Order, 29 FCC Rcd 12865 (2014) ("2014 Order")

under Sections 31-33 of Chapter 184 of the General Laws of Massachusetts OR there are active/ fixed recreational activities including but not limited to playgrounds, ball fields, and tennis courts.

5. Notwithstanding any of these regulations, the Town encourages co-location on existing structures, including but not limited to existing WCFs, buildings, water towers, utility poles and towers, and related facilities, provided such installations preserve the character and integrity of those structures. In particular, Applicants are urged to consider use of existing telephone and electric utility structures.

The subject application conforms to the stated intent to utilize existing structures and WCFs by modifying an existing facility on an existing telecommunications tower.

6. WCFs on existing structures shall:

- a. Not extend the height of the existing structure unless the structure meets all requirements of this Bylaw;

The proposed modifications will not extend above the height of the existing telecommunication tower.⁴

- b. not project above the existing structure by more than ten feet;

The proposed modifications will not extend above the height of the existing telecommunications tower.

- c. be finished in a manner designed to be aesthetically consistent with the exterior finish of the structure;

The proposed equipment is compatible with the existing previously permitted equipment.

- d. be mounted so that it does not obscure any window or other exterior architectural feature; and

This provision is not-applicable in the case of the existing telecommunications tower.

- e. not exceed fifty (50) square feet of front surface facing surrounding streets and adjacent properties, individually or in aggregate. In reviewing an application, the SPGA may increase this surface if it finds that a substantially better design will

⁴ the Federal Communications Commission has defined a substantial change under Section 6409(a) at 47 U.S.C. §1455 and 47 C.F.R. §1.6100

result from such increase. In making such a finding the SPGA shall consider both the visual and safety impacts of the proposed use.

The proposed modifications comply with this provision.

7. WCFs in new locations shall:
 - a. be allowed only if the Applicant has definitively demonstrated that there are no feasible existing structures upon which to locate;
 - b. be camouflaged to the greatest extent possible, including but not limited to the use of compatible building materials and colors, screening, and landscaping; and
 - c. include a “fall zone” equal to 150% of the height of the facility/ mount, including any antennae or other appurtenances. Within this fall zone there shall be no habitable structure and the Applicant shall demonstrate control of the land (via lease or ownership) to prohibit future habitable construction. In reviewing an application the SPGA may reduce the required fall zone by as much as 50% of the required distance if it finds that a substantially better design will result from such reduction. In making such a finding the SPGA shall consider both the visual and safety impacts of the proposed use.

Paragraphs 7 (a, b, c) do not apply as the modifications will not be located on a new structure.

8. All WCFs shall:
 - a. be no higher than ten feet above the average height AGL of buildings, tree canopy, or other structures within 300 feet OR, if on an existing structure, ten feet above the height of the existing structure, whichever is higher;
 - b. be no higher than ten feet above the height limit of the zoning district within which the WCF is located, unless the WCF is completely camouflaged such as within a flagpole, steeple, chimney, or similar structure; and
 - c. meet the setback requirements of the underlying zoning district.

The proposed equipment will be mounted on the existing antenna platform and the proposed modifications do not alter the existing ground footprint of the WCF and this will not impact existing setbacks.

6.4.3 Special Permit Regulations. All Wireless Communications Facilities shall comply with the Requirements and Performance Standards set forth in this section.

1. The following types of wireless communications facilities are exempt from the Special Permit requirement of this bylaw and may be constructed, erected, installed, placed and/or used within the Town subject to the issuance of a building

permit by the Building Commissioner:

- a. Amateur radio towers used in accordance with the terms of any amateur radio service license issued by the Federal Communications Commission, provided that:
 - i. the tower is not used or licensed for any commercial purpose;
 - ii. the tower must have a cost or replacement value of less than \$10,000.00;
 - iii. if the tower is a free-standing device, such device shall be installed in the rear yard only, outside the setback; and
 - iv. the tower must be removed if the use is discontinued for one (1) year.
- b. Towers used for the purposes set forth in M.G.L. C. 40, Section 3.
- c. Satellite dishes less than 1 meter in diameter

The Applicant agrees that the exemptions provided by Section 6.4.3, Paragraph 1 above do not apply to its proposed equipment modification. Section 6409(a) of P.L. 112-96, as codified at 47 U.S. Code §1455, however, requires permitting authorities to approve most applications administratively for the collocation and modification of wireless equipment in an effort to streamline “the process for siting of a wireless facility by preempting the ability of State and local authorities to delay collocation of, removal of, and replacement of wireless transmission equipment.”⁵

2. The SPGA shall not grant a Special Permit for lattice towers and similar facilities requiring three (3) or more legs and/or guy wires for support. Only monopoles, with associated antenna and/or panels, are allowed.

The Applicant submits that this provision does not apply as the subject structure is an existing telecommunication tower, which was previously permitted as a WCF.

3. Any new free standing towers shall be designed to structurally accommodate the maximum number of foreseeable users (within a ten (10) year period) as technically practicable. The intent of this requirement is to reduce the number of facilities which will be required to be located within the community.

This provision does not apply as the proposed modifications do not involve a new telecommunications tower structure.

4. Design Standards

⁵ 158 Cong. Rec. E237 (daily ed. Feb. 24, 2012) (statement of Rep. Upton).

a. Site Design Standards

- i. All wireless communications facilities shall minimize, to the extent feasible, adverse visual effects on the environment, the community and surrounding communities. The SPGA may impose reasonable conditions to ensure this result, including painting, screening and lighting standards.

The Applicant notes that the modifications are to an existing facility and will not result in adverse visual effects to the community.

- ii. Access shall be provided to a tower site by a roadway which respects the natural terrain, does not appear as a scar on the landscape and is approved by the SPGA, the SPGA and the Fire Chief to assure emergency access at all times. Consideration shall be given to design which minimizes erosion, construction on unstable soils and steep slopes.

The existing WCF complies with this requirement. Access will be unaffected by the proposed modifications.

- iii. There shall be a minimum of one (1) parking space for each WCF to be used in connection with the maintenance of the site, and not to be used for the permanent storage of vehicles or other equipment.

See comment below.

- iv. Traffic associated with the tower and accessory facilities and structures shall not adversely affect abutting ways.

The Applicant will comply with this provision and notes that the subject WCF is unmanned and will remain unmanned subsequent to the proposed equipment modifications. The WCF will not generate traffic in and of itself except for periodic site visits by a technician for routine maintenance. This status will remain unchanged from the existing facility.

- b. Visibility/Camouflage. All WCFs shall be sited in such a manner that the view of the facility from adjacent abutters, residential neighbors and other areas of the Town or Adjacent Towns shall be as limited as possible. All monopoles and dishes shall be painted or otherwise colored so as to blend in with the landscape or the structure on which they are located. A different color scheme shall be used to blend the structure with the landscape below and above the tree or building line.

Satellite dishes and/or antennae shall be situated on or attached to a structure in such a manner that they are screened, preferably not being visible from abutting streets. Free-standing dishes or antennae shall be located on the landscape in such a manner so as to minimize visibility from abutting streets and residences and to limit the need

to remove existing vegetation. All equipment shall be colored, molded and/or installed to blend into the structure and/or the landscape.

Wireless Communications Facilities shall be camouflaged as follows:

- i. Camouflage by Existing Buildings or Structures. When a Wireless Communications Facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal the facility within or behind existing architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front facade in order to limit their impact on the building's silhouette. Wireless Communications Facilities which are side mounted shall blend with the existing building's architecture and shall be painted or shielded with material which is consistent with the design features and materials of the building.

This provision is inapplicable in that the proposed equipment modification and will not be mounted on a roof.

- ii. Camouflage by Vegetation. If Wireless Communications Facilities are not camouflaged from public viewing areas by existing buildings or structures, they shall be surrounded by buffers of dense tree growth and understory vegetation in all directions to create an effective year-round visual buffer. Ground-mounted Wireless Communications Facilities shall provide a vegetated buffer of sufficient height and depth to effectively screen the facility. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility or a combination of both. Existing on-site vegetation shall be preserved to the maximum extent practicable. The SPGA shall determine the types of trees and plant materials and depth of the needed buffer based on site conditions.

This provision is applicable in that the proposed equipment modification will not affect any changes to the existing fenced ground equipment area.

- iii. Color. Wireless Communications Facilities which are side-mounted on buildings shall be painted or constructed of materials to match the color of the building material directly behind them. To the extent that any Wireless Communications Facilities extend above the height of the vegetation immediately surrounding it, they shall be painted in a light grey or light blue hue which blends with sky and clouds. The portion of a building-mounted WCF extending above the building shall be painted to blend with sky and clouds.

This provision is applicable in that the proposed equipment modification is mounted on an existing telecommunications tower and not a building.

- c. Equipment Shelters. Where feasible, the equipment to relay the wireless transmission or to transfer the wireless transmissions to the phone system shall be located inside an existing structure. Otherwise, such equipment shall be located in a new structure in a location where the visual impact to the community and surrounding communities

will be minimized. The SPGA may impose conditions on the siting and screening of such structure.

Equipment shelters for Wireless Communications Facilities shall be designed consistent with one of the following design standards:

- i. Equipment shelters shall be located in underground vaults;
- ii. Equipment shelters shall be designed to be consistent with the architectural context, styles and materials, of the surrounding neighborhood as determined by the SPGA.
- iii. Equipment shelters shall be camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed building, and/or wooden fence. The SPGA shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood.

The Applicant believes that sub section (c) above is inapplicable as Verizon Wireless proposes to continue utilizing the existing equipment shelter located inside the existing fenced area.

d. Lighting and Signage:

- i. Wireless Communications Facilities shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any other facilities on site shall be shielded from abutting properties. There shall be total cutoff of all light at the property lines of the parcel to be developed, and foot-candle measurements at the property line shall be 0.0 initial foot-candles when measured at grade.

This provision is not applicable as the WCF is not lighted.

- ii. There shall be no signs, except for announcement signs, danger signs, "No Trespassing" signs and a required sign giving the telephone number where the owner may be reached on a twenty-four-hour (24-hr.) basis. All signs shall conform with the Town of Ashland Sign Bylaws.

The Applicant will comply with this provision subject to any lawful requirements by federal and state authority.

e. Historic Buildings and Districts:

- i. Any Wireless Communications Facilities located on or within an historic structure shall not alter the character-defining features, distinctive construction methods, or original historic materials of the building.
- ii. Any alteration made to an historic structure to accommodate a Wireless Communications Facility shall be fully reversible.
- iii. Wireless Communications Facilities within an historic district shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads and viewing areas within the district.

The provisions of this subsection regarding Historic Districts and Buildings do not apply.

f. Scenic Landscapes and Vistas:

- i. Wireless Communications Facilities shall not be located within open areas that are visible from public roads, recreational areas or residential development. As required in the Camouflage section above, all ground-mounted Wireless Communications Facilities which are not camouflaged by existing buildings or structures shall be surrounded by a buffer of dense tree growth.
- ii. Any Wireless Communications Facility that is located within 300 feet of a scenic vista, scenic landscape, or scenic road as designated by the town shall not exceed the height of vegetation at the proposed location. If the facility is located farther than 300 feet from those elements, the height regulations described elsewhere in this bylaw will apply.

The Applicant respectfully submits that the subject telecommunication tower facility is not located within a scenic landscape or vista and thus the provision of subsection (f) does not apply.

- g. Service Utilities. All utilities, which will service the proposed personal wireless service facility, shall be located below ground from the facility's property line.

The WCF is an existing facility and no new utilities are proposed for the subject site.

h. Environmental Standards:

- i. Wireless Communications Facilities shall not be located in wetlands. Locating of wireless facilities in wetland buffer areas shall be avoided whenever possible and disturbance to wetland buffer areas shall be minimized and subject to approval of the Conservation Commission.

The subject facility is not located within a wetland area.

- ii. No hazardous waste shall be discharged on the site of any Wireless Communications Facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site.
- iii. Stormwater run-off shall be contained on-site. Any WCF or related groundwork shall comply with Chapter 282 sec 9.4 (Site Plan Review) and Chapter 247 Stormwater Management of the Codes of the Town of Ashland.
- iv. Ground-mounted equipment for Wireless Communications Facilities shall

not generate noise in excess of 50 db at the property line.

- v. Roof-mounted or side-mounted equipment for Wireless Communications Facilities shall not generate noise in excess of 50 db at ground level at the base of the building closest to the antenna.

The Applicant respectfully notes that the WCF both as currently existing and subsequent to the installation of the proposed equipment modifications does not and will not produce any hazardous waste or other physical byproducts. Similarly, the post-modification WCF will not cause any changes in the current noise levels.

i. Safety Standards:

- i. Radiofrequency Radiation (RFR) Standards. All equipment proposed for a Wireless Communications Facility shall be authorized per the FCC Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation (FCC Guidelines), as well as the Massachusetts Department of Public Health standards with respect to emissions from wireless facilities.

The Applicant complies and will continue to comply in all respects to RF emissions standards as established by the FCC both in general and specifically as under the terms of its license. The Applicant has been advised that the Massachusetts Department of Public Health no longer issues RF compliance letters but defers to established FCC standards.⁶

- ii. All ground-mounted WCFs shall be surrounded by a security barrier. The security barrier shall be a minimum of eight (8) feet in height. All fencing, walls and gates shall be compatible with the context of the existing neighborhood and community as determined by the SPGA and the Building Inspector.

The existing telecommunications tower itself is protected by an existing fence. The Applicant will comply with reasonable security provisions applicable to its own installation.

V. Compliance with Telecommunications Act of 1996

Because the Applicant is applying for zoning approval for the installation of equipment that provides wireless services, the application is subject to §704 of the federal Telecommunications Act of 1996 (“TCA”), codified at 47 U.S.C. §332(c)(7)(B). By way of background, the TCA is a federal law enacted in 1996 whose purpose is “[t]o promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications

⁶ A municipality may not consider the environmental effects of radio frequency emissions of a wireless communications facilities if the emissions comply with the standards adopted by the Federal Communications Commission 47. U.S.C.A § 332(c)(7)(B)(iv).

technologies.”⁷ To further this purpose, the TCA established national standards that apply to zoning applications for wireless facilities. These standards preempt inconsistent state and local laws, so they must be considered by zoning boards in making decisions on applications for wireless facilities.

On February 22, 2012, President Obama signed into law H.R. 3630, known as the “Middle Class Tax Relief and Job Creation Act of 2012,” which then became Public Law 112-96 (“P.L. 112-96”). Section 6409(a) of P.L. 112-96 adds new language to the existing body of laws, regulations, and decisions pertaining to wireless facility zoning *Middle Class Tax Relief and Job Creation Act of 2012, Pub L. No. 112-96, 126 Stat. 156 (2012)*.

Section 6409(a) states:

(a) FACILITY MODIFICATIONS.—

(1) IN GENERAL.—Notwithstanding section 704 of the Telecommunications Act of 1996 (Public Law 104–104) or any other provision of law, a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.

(2) ELIGIBLE FACILITIES REQUEST.—For purposes of this subsection, the term “eligible facilities request” means any request for modification of an existing wireless tower or base station that involves—

- (A) collocation of new transmission equipment;
- (B) removal of transmission equipment; or
- (C) replacement of transmission equipment.

Section 6409(a) of P.L. 112-96 builds on this existing legal framework by requiring zoning authorities to approve most applications for the collocation of wireless equipment. As stated by the Hon. Fred Upton, the Chairman of the Committee on Energy and Commerce for the U.S. House of Representatives, the purpose of the law is to streamline “the process for siting of wireless facility by preempting the ability of State and local authorities to delay collocation of, removal of, and replacement of wireless transmission equipment.” Through its statutory mandate and given the lack of statutory definitions, the Federal Communications Commission has defined a substantial change under Section 6409(a) as follows:

(i) For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten feet, whichever is greater;

(A) Changes in height should be measured from the original support structure in cases where deployments are or will be

⁷ *Telecommunications Act of 1996*, Pub. L. No. 104-104, 110 Stat. 56 (1996).

separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act.

(ii) For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;

(iii) For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;

(iv) It entails any excavation or deployment outside the current site;

(v) It would defeat the concealment elements of the eligible support structure; or

(vi) It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in §1.40001(b)(7)(i) through (iv).

The proposed replacement of transmission equipment satisfies the standards for each of the listed criterion in that it will not result in any increase to the height of the existing Tower, will not protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, there will be no excavation outside of the existing fenced area, it does not defeat the concealment elements and finally continues to comply with the siting approval.

The Federal Communications Commission also adopted rules that require local review subject to Section 6409(a) be completed within sixty (60) days. A Section 6409(a) request will be “deemed granted” if not approved within the sixty (60) day period.

VI. Conclusion

Applicant respectfully submits the proposed modifications satisfy the standards for issuance of building permit in accordance with an eligible facilities request pursuant to 47 U.S.C. §1455 and 47 C.F.R. §1.6100. The Federal Communications Commission adopted rules in 2014 clarifying many of the Section 6409(a)'s terms, such as "substantial change," in an effort to advance Congress' goal of facilitating rapid deployment. Federal authorities clearly provide that an eligible facilities request should be administratively approved if the installation does not result in a substantial change.⁸

Alternatively and *with all rights reserved*, the Applicant respectfully requests the Board to determine that the Applicant has satisfied the requirements for the granting of the requested special permit and to further determine that the proposed Project will not have an adverse effect on the surrounding neighborhood or the Town of Ashland. This conclusion is supported by the particular unique topographical characteristics of the Property and the proposed Project's design and equipment location as detailed above and within the supporting documentation submitted herewith.

The Property is an appropriate location for the installation and operation of the proposed Project and represents the least intrusive and most practical means by which the Applicant can enhance service coverage by deploying equipment for fourth generation services. For the foregoing reasons, the Applicant respectfully requests that the honorable Board members grant the requested special permit and/or such other relief as the Board deems necessary to allow the Applicant to install and complete the proposed Project on the Property.

Very truly yours,
DUVAL & KLASNICK LLC



By: Daniel D. Klasnick
Attorney at Law

⁸ See 47 U.S.C. §1455(a) and 47 C.F.R. §1.6100(b)

Exhibit 1 – “Special Permit”



2012 00143758

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Page: 1 of 4 07/12/2012 12:38 PM

**COMMONWEALTH OF MASSACHUSETTS
ASHLAND ZONING BOARD OF APPEALS**

12 JUL 20 11 5: 33
TOWN CLERK
ASHLAND, MA
fmw

HEARING NUMBER: 12 - 03

FINDINGS

- 1. APPLICANT:** The Applicant in this matter is Bell Atlantic Mobile of Massachusetts Corporation, Ltd. d/b/a Verizon Wireless. The local corporate address of the Applicant is 400 Friberg Parkway, Westborough, MA 01581. The Applicant is represented by Daniel D. Klasnick.
- 2. APPLICATION:** On or about April 18, 2012, the Applicant filed an application for Special Permit for the alteration of a non-conforming structure to allow for replacement of 6 existing antennas with 3 LTE antennas and 3 cross-pole PCS antennas at the same mounting height on an existing telecommunications tower with 6 additional lines of internally mounted coaxial cable. Pursuant to the terms of Section 282-3.3.3 of the Code, Town of Ashland, all as described with particularity in the application and supplemental materials submitted on April 18, 2012.
- 3. THE LOCUS:** The locus which is the subject of this application is located at 34 Albert Ray Drive, which is in a Residential A zoning district and is shown on the Assessor's Atlas as MAP 9, PARCEL NO. (LOT) 173, Registry of Deeds' BOOK 30867, PAGE 0381; owned by Crown Atlantic Company LLC
- 4. PUBLIC HEARING:** The public hearing in this matter was held in the Town Hall Meeting Room on Monday, May 21, 2012 commencing at 7:15 PM, concluded and closed that evening. Notice of the hearing was given to all persons deemed affected as shown on the latest tax rolls of the Town and by publication in "The Metrowest Daily News", a newspaper of general circulation in the Town, on May 7, 2012 and May 14, 2012. The Board of Selectmen, Town Manager, Inspector of Buildings, Planning Board, Conservation Commission, Board of Health and Board of Assessors were also notified. Sitting on the hearing were members Stanley Daner, Tom McNulty, and Ed Hart.
- 5. DOCUMENTS OF RECORD:** During the public hearing, the Board reviewed the application and submitted supplemental exhibits including zoning drawings, photo simulations, antenna specifications, propagation maps, and accompanying RF affidavit. Testimony and evidence brought forth at the Hearing was gathered including a review of the Zoning By-Laws of the Town of Ashland in relation to compliance with the Telecommunications Act of 1996 and Public Law No. 112-96, 126 Stat. 156 (2012) Section 6409(a).

6. REQUIRED FINDINGS PER SECTION 8.3 OF THE ZONING BY-LAW:

A. The Applicant presented and submitted materials that demonstrated a need to fill a coverage gap in wireless service through deployment of equipment necessary to support its 4G LTE service.

A TRUE COPY, ATTEST:

Tara M. Ward, Town Clerk

B. The application is consistent with and complies with conditions set forth in Section 8.3.5. The application is consistent with provisions set forth in Section 8.3.6 which requires all service providers to co-locate on a single tower (structure) to the degree feasible. The application is consistent with Section 8.3.7 by re-structuring an existing installation to handle its current wireless network as well as a new network with the replacement and upgrading of the existing antennae.

7. REQUIRED FINDINGS PER SECTION 9.3 OF THE ZONING BY-LAW:

Section 9.3.2 of the Zoning By-Law requires the Board to determine that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this By-Law, the determination shall include consideration of each of the following:

1. Community needs served by the proposal;
2. Traffic flow and safety, including parking and loading;
3. Adequacy of utilities and other public services;
4. Neighborhood character and social structures;
5. Impacts on the natural environment; and
6. Potential fiscal impact, including impact on town services, tax base, and employment.

For the reasons set forth above, the Board has determined that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or the neighborhood

8. REQUIRED FINDINGS PER SECTION 3.0 OF THE ZONING BY-LAW

A. The Board finds that the application for Special Permit is consistent with conditions set forth in Section 3.3.1 of the By-Law and that said structure and use is lawfully pre-existing nonforming pursuant to the conditions set forth in the Section.

B. Pursuant to Section 3.3.2 and 3.3.3 of the Zoning By-Law, the Board finds that the proposed changes and modifications will not be substantially more detrimental than the existing non-conforming structure to the neighborhood.

CONDITIONS

In accordance with this Board's ability to proscribe restrictions per Section 9.3.4 of the Zoning By-Law, the Board hereby imposes the following conditions to address a number of concerns that were discussed during the public hearing. Such conditions must be met prior to issuance of final permit.

1. The antenna array must conform to the specifications included in the application, including but not limited to number of antennae, antennae size, and mounting specifications.
2. During the installation of the antennas and subsequent maintenance and operation, the Applicant, property owner, and authorized agents will abide by the various Town of Ashland bylaws applicable to such work and operation, including but not limited to those governing noise in Chapter 204 of the Ashland bylaws.
3. Any replacement or modification of the antennae that exceeds the specifications provided in the application will require a new special permit and be subject to the applicable by-laws and regulations at such future date.
4. Once operational, any violation of these conditions will be subject to the penalties and process proscribed by Section 9.1 of the Zoning By-Law.

VOTE


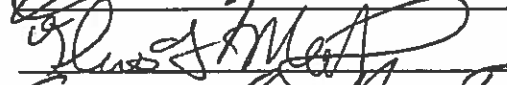

Therefore, it was duly voted as follows to approve the subject Special Permit with the above-referenced conditions.

Stanley Daner, voting to grant with conditions.
Tom McNulty, voting to grant with conditions.
Ed Hart, voting to grant with conditions.

DATE: June 20, 2012

ASHLAND ZONING BOARD OF APPEALS

By:

Filed with Town Clerk on:

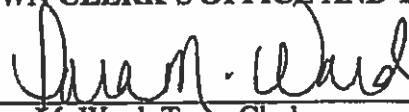
Date: June 20, 2012


Tara M. Ward, Town Clerk

APPEALS MAY BE MADE PURSUANT TO SECTION 17, CHAPTER 40A, M.G.L.. IF NO APPEAL IS MADE WITHIN TWENTY DAYS OF THE DATE OF FILING OF THIS DECISION WITH TOWN CLERK, THE FOLLOWING SHALL BE EXECUTED BY 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.

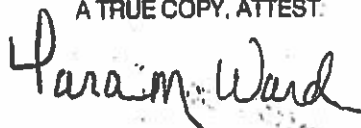
DATE: July 11, 2012


Tara M. Ward, Town Clerk

*****NOTICE*****

The Grantee must see to the filing and indexing of this decision and certification in the Registry of Deeds as set forth in Chapter 40A, Section 11, M.G.L. This grant shall not be in effect until proof of filing is shown and filed with the Inspector of Buildings and the Zoning Board of Appeals.

A TRUE COPY, ATTEST:



Tara M. Ward, Town Clerk

Exhibit 2 - the “Plans”

Exhibit 3 – “FCC Licenses”

REFERENCE COPY

This is not an official FCC license. It is a record of public information contained in the FCC's licensing database on the date that this reference copy was generated. In cases where FCC rules require the presentation, posting, or display of an FCC license, this document may not be used in place of an official FCC license.



**Federal Communications Commission
Wireless Telecommunications Bureau**

RADIO STATION AUTHORIZATION

LICENSEE: CELLCO PARTNERSHIP

ATTN: REGULATORY
CELLCO PARTNERSHIP
5055 NORTH POINT PKWY, NP2NE NETWORK ENGINEERING
ALPHARETTA, GA 30022

Call Sign KNLH242	File Number 0007716969
Radio Service CW - PCS Broadband	

FCC Registration Number (FRN): 0003290673

Grant Date 06-02-2017	Effective Date 06-02-2017	Expiration Date 06-27-2027	Print Date 06-06-2017
Market Number BTA051	Channel Block F	Sub-Market Designator 0	
Market Name Boston, MA			
1st Build-out Date 06-27-2002	2nd Build-out Date	3rd Build-out Date	4th Build-out Date

Waivers/Conditions:

This authorization is subject to the condition that, in the event that systems using the same frequencies as granted herein are authorized in an adjacent foreign territory (Canada/United States), future coordination of any base station transmitters within 72 km (45 miles) of the United States/Canada border shall be required to eliminate any harmful interference to operations in the adjacent foreign territory and to ensure continuance of equal access to the frequencies by both countries.

This authorization is conditioned upon the full and timely payment of all monies due pursuant to Sections 1.2110 and 24.716 of the Commission's Rules and the terms of the Commission's installment plan as set forth in the Note and Security Agreement executed by the licensee. Failure to comply with this condition will result in the automatic cancellation of this authorization.

Conditions:

Pursuant to §309(h) of the Communications Act of 1934, as amended, 47 U.S.C. §309(h), this license is subject to the following conditions: This license shall not vest in the licensee any right to operate the station nor any right in the use of the frequencies designated in the license beyond the term thereof nor in any other manner than authorized herein. Neither the license nor the right granted thereunder shall be assigned or otherwise transferred in violation of the Communications Act of 1934, as amended. See 47 U.S.C. § 310(d). This license is subject in terms to the right of use or control conferred by §706 of the Communications Act of 1934, as amended. See 47 U.S.C. §606.

This license may not authorize operation throughout the entire geographic area or spectrum identified on the hardcopy version. To view the specific geographic area and spectrum authorized by this license, refer to the Spectrum and Market Area information under the Market Tab of the license record in the Universal Licensing System (ULS). To view the license record, go to the ULS homepage at <http://wireless.fcc.gov/uls/index.htm?job=home> and select "License Search". Follow the instructions on how to search for license information.

Licensee Name: CELLCO PARTNERSHIP

Call Sign: KNLH242

File Number: 0007716969

Print Date: 06-06-2017

License renewal granted on a conditional basis, subject to the outcome of FCC proceeding WT Docket No. 10-112 (see FCC 10-86, paras. 113 and 126).

Reference Copy

Licensee Name: CELLCO PARTNERSHIP

Call Sign: KNLH242

File Number: 0007716969

Print Date: 06-06-2017

700 MHz Relicensed Area Information:

Market	Market Name	Buildout Deadline	Buildout Notification	Status
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Reference Copy

REFERENCE COPY

This is not an official FCC license. It is a record of public information contained in the FCC's licensing database on the date that this reference copy was generated. In cases where FCC rules require the presentation, posting, or display of an FCC license, this document may not be used in place of an official FCC license.



**Federal Communications Commission
Wireless Telecommunications Bureau**

RADIO STATION AUTHORIZATION

LICENSEE: CELLGO PARTNERSHIP

ATTN: REGULATORY
CELLCO PARTNERSHIP
1120 SANCTUARY PKWY, #150 GASA5REG
ALPHARETTA, GA 30009

Call Sign WQGA900	File Number 0006150134
Radio Service AW - AWS (1710-1755 MHz and 2110-2155 MHz)	

FCC Registration Number (FRN): 0003290673

Grant Date 11-29-2006	Effective Date 12-28-2013	Expiration Date 11-29-2021	Print Date 02-14-2014
Market Number BEA003	Channel Block B	Sub-Market Designator 1	
Market Name Boston-Worcester-Lawrence-Lowe			
1st Build-out Date	2nd Build-out Date	3rd Build-out Date	4th Build-out Date

Waivers/Conditions:

This authorization is conditioned upon the licensee, prior to initiating operations from any base or fixed station, making reasonable efforts to coordinate frequency usage with known co-channel and adjacent channel incumbent federal users operating in the 1710-1755 MHz band whose facilities could be affected by the proposed operations. See, e.g., FCC and NTIA Coordination Procedures in the 1710-1755 MHz Band, Public Notice, FCC 06-50, WTB Docket No. 02-353, rel. April 20, 2006.

AWS operations must not cause harmful interference across the Canadian or Mexican Border. The authority granted herein is subject to future international agreements with Canada or Mexico, as applicable.

Conditions:

Pursuant to §309(h) of the Communications Act of 1934, as amended, 47 U.S.C. §309(h), this license is subject to the following conditions: This license shall not vest in the licensee any right to operate the station nor any right in the use of the frequencies designated in the license beyond the term thereof nor in any other manner than authorized herein. Neither the license nor the right granted thereunder shall be assigned or otherwise transferred in violation of the Communications Act of 1934, as amended. See 47 U.S.C. § 310(d). This license is subject in terms to the right of use or control conferred by §706 of the Communications Act of 1934, as amended. See 47 U.S.C. §606.

This license may not authorize operation throughout the entire geographic area or spectrum identified on the hardcopy version. To view the specific geographic area and spectrum authorized by this license, refer to the Spectrum and Market Area information under the Market Tab of the license record in the Universal Licensing System (ULS). To view the license record, go to the ULS homepage at <http://wireless.fcc.gov/uls/index.htm?job=home> and select "License Search". Follow the instructions on how to search for license information.

Exhibit 4 - the “Structural”

Date: July 11, 2019

Denice Nicholson
Crown Castle
3 Corporate Park Dr, Suite 101
Clifton Park, NY 12065

Paul J Ford & Company
250 E Broad St., Suite 600
Columbus, OH 43215
(614) 221-6679

Subject: Structural Analysis Report

Carrier Designation: Verizon Wireless Co-Locate
Carrier Site Number: 20312
Carrier Site Name: Ashland MA

Crown Castle Designation: Crown Castle BU Number: 806042
Crown Castle Site Name: BOS ASHLAND
959026
Crown Castle JDE Job Number: 578920
Crown Castle Work Order Number: 1753992
Crown Castle Order Number: 496287 Rev. 0

Engineering Firm Designation: Paul J Ford & Company Project Number: 37519-1242.003.7805

Site Data: ALBERT RAY DRIVE FOUNTAIN AND GREEN STREETS,
ASHLAND, Middlesex County, MA
Latitude 42° 16' 25.3", Longitude -71° 27' 5.6"
100 Foot - Monopole Tower

Dear Denice Nicholson,

Paul J Ford & Company is pleased to submit this "Structural Analysis Report" to determine the structural integrity of the above mentioned tower.

The purpose of the analysis is to determine acceptability of the tower stress level. Based on our analysis we have determined the tower stress level for the structure and foundation, under the following load case, to be:

LC4.7: Proposed Equipment Configuration Sufficient Capacity

This analysis utilizes an ultimate 3-second gust wind speed of 127 mph as required by the 2015 International Building Code as amended by the Massachusetts State Building Code, Ninth Edition. Applicable Standard references and design criteria are listed in Section 2 - Analysis Criteria.

Respectfully submitted by:


Angela Sage, E.I.
Structural Designer
asage@pauliford.com



7/12/19

Exhibit 5 - the “Letter of Authorization”