

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS

Chip O'Brien
Joseph Zamboni
Erik Larsson
Revised - Kent Avery
Dana Katsafian
Brandon Meyer

R-5 Residential Zone
Conditional Use Appeal

DECISION

Date of public hearing: October 20, 2016
Name and address of applicant: Verizon Wireless d/b/a Portland Cellular
118 Flanders Road
Westborough, MA 01581
Location of property under appeal: 1531 Congress Street
CBL 196 E001001

For the Record:

Names and addresses of witnesses (proponents, opponents and others):

Scott Anderson
Vernell Dana
Matt Burke
Verizon

Mark Warnoff, 26 Rabbit Run
Pete Wild, Brewer St.
Stacy Abbott, Rabbit Run
Jeannie Kenny, Haywood St
Rose Lannon, 1530 Congress
Gary Johnson, Brewer St
Terry Wile, Brewer St.
Amy Abbot, 32 Rabbit Run
Tom Sittardick, Haywood St.
Mark Kenny, Haywood St.

Exhibits admitted (e.g. renderings, reports, etc.):

Application of Exhibits

Findings of Fact and Conclusions of Law:

The applicant is seeking a conditional use permit pursuant to Sec. 14-118(c)(2) to construct a 1,200 sq. ft. equipment shelter, as well as locate an external back-up generator on a 14'x6' concrete pad outside of and behind the structure. The shelter will be accessed by a paved driveway, and a single parking area will be provided.

A. Special standards pursuant to Sec. 14-118(c)(2). "Utility substations such as water and sewage pumping stations and standpipes, electric power substations, transformer stations, and telephone electronic equipment enclosures and other similar structures" are allowed so long as they meet the following standard:

1. The use must be "suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood." Sec. 14-118(c)(2).

Satisfied Not Satisfied

4 YES
~~UNANIMOUS~~
4 SATISFIED
1 NO VOTE

Reason and supporting facts:

THE TESTIMONY OF THE APPLICANT SUPPORTED BY THE SITE PLAN (Z-2) ~~AND THE~~ SHOWS SUITABLE SCREENING TO ENSURE COMPATIBILITY WITH THE SURROUNDING NEIGHBORHOOD. IN ADDITION, THE LEVEL II SITE PLAN REVIEW WILL PROVIDE AN ADDITIONAL OPPORTUNITY FOR COMMENT & ADJUSTMENTS

B. Conditional use standards pursuant to Sec. 14-474(c)(2). A conditional use permit shall be granted "upon a showing that the proposed use, at the size and intensity contemplated at the proposed location, will not have substantially greater negative impacts than would normally occur from surrounding uses or other allowable uses in the same zoning district." This standard is met only if the applicant meets all of the following criteria:

1. The volume and type of vehicle traffic to be generated, hours of operation, expanse of pavement, and the number of parking spaces required are not substantially greater than would normally occur at surrounding uses or other allowable uses in the same zone. Sec. 14-474(c)(2)(a).

Satisfied Not Satisfied

~~5 FOR~~
UNANIMOUS

Reason and supporting facts:

TESTIMONY & SUPPORTING MATERIALS SHOW ONE SITE VISIT DURING NORMAL OPERATING MONTHS.

2. The proposed use will not create unsanitary or harmful conditions by reason of noise, glare, dust, sewage disposal, emissions to the air, odor, lighting, or litter. Sec. 14-474(c)(2)(b).

Satisfied

Not Satisfied

~~UNANIMOUS~~ UNANIMOUS

Reason and supporting facts:

THERE WAS NO TESTIMONY OR EVIDENCE INDICATING ANY GLARE, DUST, SEWAGE DISPOSAL, ODOR OR LITTER. A SOUND STUDY PREPARED BY MODALINE SPECIALTIES SHOWS THAT PREDICTED EQUIPMENT SOUND LEVELS WOULD BE 48dBA OR LESS AT THE CLOSEST RESIDENCE, WHICH IS LESS THAN BACKGROUND NOISE LEVELS.

3. The design and operation of the proposed use, including but not limited to landscaping, screening, signs, loading, deliveries, trash or waste generation, arrangement of structures, and materials storage will not have a substantially greater effect/impact on surrounding properties than those associated with surrounding uses or other allowable uses in the zone. Sec. 14-474(c)(2)(c).

Satisfied

Not Satisfied

UNANIMOUS

Reason and supporting facts:

THE PROPOSED USE WILL NOT INCLUDE ANY SIGNS, LOADING, DELIVERIES, TRASH, OR WASTE GENERATION OR MATERIALS STORAGE.

LANDSCAPING, SCREENING AND ARRANGEMENT OF STRUCTURES IS CONSISTENT WITH SURROUNDING USES AND THE EFFECTS/IMPACTS ARE LESS THAN ALLOWABLE USES WHICH INCLUDE SCHOOLS, CHURCHES AND ~~OTHER~~ OTHER LARGE SCALE FACILITIES.

FOR IN FAWDA / ONE DEPOSIT

Option 1: The Board finds that the standard described in section A above has been satisfied and that all of the standards (1 through 3) described in section B above have been satisfied, and therefore GRANTS the conditional use permit.

Option 2: The Board finds that while the standard described in section A above has been satisfied and that all of the standards (1 through 3) described in section B above have been satisfied, certain additional conditions must be imposed to minimize adverse effects on other property in the neighborhood, and therefore GRANTS the application SUBJECT TO THE FOLLOWING CONDITIONS:

Option 3: The Board finds that the standard described in section A above and/or all of the standards (1 through 3) described in section B above have not been satisfied, and therefore DENIES the application.

Dated: 10-20-16

Donna M. Katsiyannis
Acting Board Chair

