

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS

*McCall
Hanson
Katsifelis
Zarbone
Avery-madd*

R-5 Residential Zone
Conditional Use Appeal

DECISION

Date of public hearing: November 2, 2017
Name and address of applicant: Bell Atlantic Mobile Systems of Allentown, Inc. d/b/a
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):

① *Scott D. Anderson Esq.
o/b/o Verizon Wireless*

No public comment.

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

Testimony + written materials

*H. Ju Zaruboni
Sec Pro Tem*

Findings of Fact and Conclusions of Law:

The applicant is seeking a conditional use permit pursuant to § 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-D

Reason and supporting facts:

Materials + testimony indicate standard was previously met and supported by proposed site plan.

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

4-D

Reason and supporting facts:

Materials + testimony indicate a single trip per month will be average during normal hours of operation.

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 4-0

Reason and supporting facts:

Testimony and materials indicate that only noise would be standard generator, heating + cooling.

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 4-0

Reason and supporting facts:

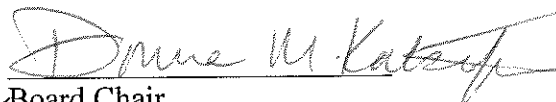
Testimony and materials indicate that there will be no signs, trash, deliveries, loading and remains same as previous applications granted.

✓ 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. Pursuant to § 14-474(f), the conditional use permit is granted for a period of ONE YEAR. 40

___ 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: 11/2/2017

Acting Board Chair

Donna