

Lisa Pearson

Director of Planning and Development
lpearson@salisburyma.gov

Connie Brawders

Assistant Planner
asstplanner@salisburyma.gov

Sue Johnson

Planning Board Secretary
planningdept@salisburyma.gov

Phone: 978-463-2266
Fax: 978-462-3915

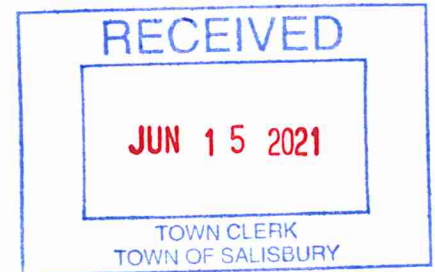


Planning Board
Town of Salisbury
5 Beach Road
Salisbury, MA 01952

**DECISION
SPECIAL PERMIT**

Planning Board:

Don Egan, *Chairperson*
John "Marty" Doggett
V. Chairperson
Gil Medeiros, *Clerk*
Lou Masiello
Deborah Rider
John Schillizzi, *Associate*



June 14, 2021

Town Clerk
5 Beach Road
Town of Salisbury
Salisbury, MA 01952

Applicant: New Cingular Wireless PCS, LLC (AT&T), c/o April Grasso

Address of Applicant: 85 Rangeway Road, Billerica, MA 01852

Address of Project: 91 North End Boulevard (Map 33, Lot 38)

Deed: Book 17706, Page 448

To the Town Clerk:

This is to certify, at a duly noticed public hearing of the Salisbury Planning Board regarding a special permit application, that opened on May 12, 2021, continued to May 26, 2021 and closed on May 26, 2021, by a motion duly made and seconded, it was voted:

"We, the Salisbury Planning Board, as requested by New Cingular Wireless PCS, LLC (AT&T), c/o Brown Rudnick LLP, under the provisions of Article XIX. Wireless Communications Facilities of the Zoning By-Laws of the Town of Salisbury, considered Special Permit approval for a wireless array to be collocated on the Town's Water Tank, and emergency power generator on a proposed raised steel equipment platform to hold ancillary equipment, at a property addressed as 91 North End Boulevard (Assessors Map 33, Lot 38), shown on plans ("The Plans") entitled:

NSB Salisbury-North End Blvd., FA Number: 13017921, Site Number: MA2521S, 1C – MRCTB032711, 91 North End BLVD., Salisbury, MA 01952, Essex County; for lessee AT & T / New Cingular Wireless PCS, LLC, 550 Cochituate Road, Framingham, MA 01701; prepared by Maser Consulting, 2000 Midlantic Drive, Ste. 100, Mount Laurel, NJ, 08054; showing third revision dated 04/02/2019, revised thru 05/20/2021 consisting of 20 Sheets [T-1, GN-1, Z-1, Z-2, C-1, C-2, C-3, C-4, A-1, A-2, A-3, G-1, G-2, G-3, E-1, E-2, S-1, S-2, S-3, S-4], and

do hereby vote:

SPECIAL PERMIT

To grant the proposed special permit pursuant to the Wireless Communications Facilities Zoning By-Laws of the Town of Salisbury, the Planning Board must find that all of the following conditions are fulfilled.

- a. The requested use was listed in the Wireless Communications District C of the Zoning By-Laws of the Town of Salisbury as requiring a special permit from the Planning Board.
- b. The requested use was determined to be desirable to the public convenience and welfare.
- c. The requested use will not create undue traffic congestion or unduly impair pedestrian safety.
- d. The requested use will not overload any public water, drainage, or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting health, safety, or the general welfare.
- e. The special regulations found in Article XIX (Wireless Communications) of the Zoning By-Laws of the Town of Salisbury were fulfilled.
- f. The requested use will not impair the integrity or character of the district or adjoining districts, nor is the requested use detrimental to the health or welfare of the neighborhood.
- g. The requested use will not, by its addition to the neighborhood, cause an excess of that particular use that is detrimental to the character of the neighborhood.

Motion presented by: Louis Masiello to approve the amendment to the application by eliminating the request for a generator, without prejudice.

Seconded by: Deborah Rider.

Vote on motion: 5 – 0.

Motion: Passed

Motion presented by: Louis Masiello to approve the special permit for property located at 91 North End Boulevard (Map 33, Lot 38) for a Wireless Communications Facility, as shown on the Plans.

Seconded by: Deborah Rider.

Vote on Motion:

Don Egan, Chairperson - Yes

John “Marty” Doggett, Vice Chair - Yes

Gil Medeiros, Clerk - Yes

Lou Masiello - Yes

Deborah Rider - Yes

Motion: **Passed 5 - 0**

MATERIALS

Hereinbelow but not limited to are the materials submitted to the Planning Board during the public hearing:

1. “The Plans” [T-1 Title Sheet, GN-1 General Notes, Z-1 200’ Radius Map, Z-2 Site Plan, C-1 Compound Plan, C-2 Equipment Layout, C-3 Elevation View, C-4 Antenna Layout and Antenna Schedule, A-1 Construction Details, A-2 Construction Details, A-3 RF Plumbing Diagrams, G-1 Grounding Details & Notes, G-2 Grounding Details, G-3 Grounding Plan, E-1 Utility Plan, E-2 Utility Riser, S-1 Structural Details, S-2 Structural Details, S-3 Structural Details, S-4 Structural Details];
2. Minor Site Plan Review Application, received April 27, 2021;
3. List of requested waivers, received May 7, 2021;
4. Deed Book 17706, Page 448;
5. Proposal Summary prepared by April Grosso, Smartlink, LLC, received April 8, 2021;
6. Project Narrative Letter, dated May 6, 2021 and prepared by Brown Rudnick, LLP;
7. FCC Regulations;
8. FCC Public Notice;
9. RF Report with Coverage Maps, dated April 23, 2021 and prepared by C Squared Systems, LLC;
10. Calculated Radio Frequency Emissions Report, dated April 26, 2021 and prepared by C Squared Systems, LLC;
11. Generator Specifications;
12. Massachusetts Department of Health Memorandum, dated March 15, 2002;
13. Letter from Brown Rudnick LLP, dated May 20, 2021 amending application by eliminating the request for a generator, without prejudice;

14. Town Departments' Letters of Review:

- a. Letter from Town's Consulting Engineer Joseph J. Serwatka, P.E., dated June 2, 2021;
- b. Assessors comments dated May 6, 2021;
- c. Building Inspector comments dated May 7, 2021;
- d. Conservation Commission Agent email communications of May 10, May 24 and May 26, 2021;
- e. Department of Public Works communication of May 10, May 12, and May 19, 2021.
- f. Fire Department letter dated April 12, 2021;
- g. Health Department comments dated May 24 and May 7, 2021;
- h. Tax and Betterment Payment Certification acknowledged April 8, 2021;
- i. Abutter List Request certified April 8, 2021.

PROCEDURAL HISTORY

On May 7, 2021 a request by applicant for Special Permit for the installation of a wireless antenna array on the Town of Salisbury water tower, with associated ground appurtenances, at 91 North End Blvd (Map 33, Lot 38), a 0.230-acre site located in the Beach Commercial zoning district and Flood Plain and Wireless District C overlay districts was filed with Town Clerk.

Applicant: April Grasso for Smartlink Group [as requested by New Cingular Wireless PCS, LLC], 85 Rangeway Road, Bldg. 3, Ste. 102, Billerica, MA 01862.

Legal Counsel for Applicant: Edward D. Pare, Jr., Esq., Brown Rudnick, LLP, 10 Memorial Boulevard, Providence, RI 02903

The plans and other submittals were reviewed by the Planning Board, its consulting engineer, Joseph J. Serwatka, P.E., Planning Director, Lisa Pearson, and Assistant Planning Director, Connie Brawders. Also, present during the hearing was Planning Board Secretary Sue Johnson.

The application for Special Permit was heard concurrently with Site Plan Review under Town of Salisbury Zoning By-law Article XVIII. Site Plan Review.

The public hearing on the application was opened May 12, 2021 and continued to, and closed, on May 26, 2021. Throughout its deliberations, the Planning Board was mindful of the statements of the applicants and their representatives, all as made at the public hearing. There were no public comments made by the general public.

FINDINGS

1. The site plan contains a design that has provided the foundation for Planning Board to determine that the requirements, standards and guidelines of the Salisbury Planning Board Rules and Regulations and the general requirements and design and performance standards of Article XIX of the Zoning By-Laws of the Town of Salisbury have been completed in a satisfactory manner.
2. Currently, 91 North End Boulevard, the proposed site, is a lot upon which there is an existing 151' above ground level ("AGL") water tank (the "Water Tank") upon which there are existing antennas of a wireless communications services provider at a top height of 107' 2" AGL.
3. 91 North End Boulevard is located within the Wireless Communication District C.
4. The application is to collocate six (6) panel antennas (two (2) antennas per sector) at the 90' AGL antenna centerline height on the existing Water Tank, together with related amplifiers, cables, fiber and other associated antenna equipment, including, without limitation, remote radio heads, surge arrestors, and global positioning system antennas with associated electronic equipment in equipment cabinets and other appurtenances located on a proposed elevated steel platform within the base of the Water Tank, located within an existing compound enclosed by a chain link fence (the "Facility"). The Facility will not substantially change the physical dimensions of the Water Tank.
5. The height of the proposed antennas will be at a height sufficient to provide needed coverage to AT&T's network. The proposed antennas will not exceed the height of either the Water Tank or the existing wireless communications services antennas. Additionally, the antennas will be of a color that will blend with the color of the Water Tank.
6. The requested use is essential and/or desirable to the public convenience and welfare. The Facility will improve communication coverage to the residents, commercial establishments and travelers through the area and improve communication services in this area of Town.
7. AT&T's proposed Facility will not create undue traffic congestion or unduly impair pedestrian safety. AT&T's Facility will be unmanned. Maintenance trips to and from the Facility will average one or two per month.
8. The requested use will not overload any public water, drainage, or sewer system or any other municipal system as it will be unmanned and will not require water, sewer, or waste removal services. The Facility will operate on standard electric and telecommunications service.
9. AT&T's proposed Facility will not impair the integrity or character of the zoning district or adjoining districts because it will be located on the Water Tank so that potential visual impacts will be minimized and the aesthetic qualities of Salisbury will be preserved. The proposed use will be passive in nature and will not cause unreasonable noise, vibration, smoke, odors waste or glare.

SPECIAL PERMIT CONDITIONS

The following Conditions shall be required at the Applicant's sole expense, unless otherwise noted:

1. This approval shall be subject to the Department of Public Works final sign off on design.
2. Waivers shall be listed on plans. Updated plans to be submitted to Planning Department, Department of Public Works, Building Department, and Assessors.
3. This approval shall apply to any successor in interest or successor in control of the property and to any contractor or other person performing work.
4. Contact information for any successor in interest or successor in control shall be provided to the Planning Department as soon as changes are known.
5. This approval is not final until all administrative appeal periods from this approval have elapsed, or if such an appeal has been taken, until all proceedings have been completed.
6. After the administrative appeal period, this decision shall be recorded in the registry of deeds before the pre-construction meeting.
7. The work shall conform to the plans and conditions referenced in this approval.
8. The Applicant shall provide to the Planning Department, Building Inspector, and Chief of the Police Department, the name, telephone number and electronic mail address of a contact person in the event that such person needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder.

PRIOR TO ANY SITE WORK

9. The Applicant shall coordinate with the Planning Department a pre-construction meeting with the Town staff prior to the start of any construction to review these conditions and any final construction sequencing, details, and plans for this Project. Commencement of construction includes any site clearing or grading. The limit of work line for the particular area or phase being developed shall be demarcated at this time through the placement of temporary snow fence material and erosion control barriers. Periodic status reports (agreed upon at said pre-construction meeting) shall be submitted to the Town outlining the general status of the construction and major milestones completed.
10. The Applicant shall provide an updated Construction Sequencing Plan, subject to the approval of the Town Engineering Consultant or designee.
11. The Applicant is to meet with the Town of Salisbury Department of Public Works to ensure compliance with any requirements, including bonding.

PRIOR TO THE ISSUANCE OF A BUILDING PERMIT

12. All other requirements and permits shall be sought and received, including, but not limited to, utility connections. The Applicant shall bear the burden of ensuring all state and local permitting has been sought and received. The "Applicant" refers to the person or entity holding the fee interest to the title to the site from time to time, which can include but is not limited to the Applicant, Developer and Owner.
13. The work authorized hereunder must have active development or at least substantial progress toward the implementation of the approved Special Permit occurring within two years or the approval becomes void. This approval may be extended by the issuing authority for an additional two-year period if, in the opinion of the issuing authority, there is just cause to approve an extension of the special permit.
14. This approval does not relieve the applicant or any other person(s) of the necessity of complying with all applicable federal, state, or local statutes, ordinances, bylaws or regulations.
15. Inform all contractors and subcontractors of the conditions and provisions of this approval. This approval shall be included in all construction contracts and subcontracts dealing with the work.
16. This approval is not final until all administrative appeal periods from this approval have elapsed, or if such an appeal has been taken, until all proceedings have been completed. However, the applicant may proceed to schedule the pre-construction meeting, apply to the Building Department for the required local permits, and proceed with installation at its own risk.
17. The work shall conform to the Plans and special conditions referenced in this approval.
18. No change to an approved plan shall be made until the applicant receives written permission from the Planning Board.

DURING CONSTRUCTION

19. Hours of Construction shall be adhered to and said hours shall be posted in a conspicuous place at the entrance prior to any work on the site. These Hours are:

Hours of Construction Operations

Construction activity shall not take place on-site or in any building contained therein except during the following hours:

Mondays through Fridays: 7:00 AM to 5:00 PM,
Saturdays: 9:00 AM to 5:00 PM,

Sundays and Legal Holidays: none

20. Town staff or their designee shall have reasonable access to inspect the site to determine compliance with this Decision. All water, sewer and drainage facilities shall be subject to inspection by the Town, and all water and sewer facilities shall be constructed in accordance with Town specifications.
21. Construction activities shall be conducted in a workmanlike manner at all times. Blowing dust or debris shall be controlled by the Applicant through stabilization, wetting down, and proper storage and disposal methods.

PRIOR TO THE ISSUANCE OF CERTIFICATE OF OCCUPANCY

22. Upon completion of the work described herein, the applicant shall submit a Request for a Certificate of Completion to the Planning Board, upon which time the Inspector for the Planning Board has 10 days to inspect the project. This must be done and the Certificate of Completion must be granted in order to receive a Certificate of Occupancy.
23. The Applicant shall schedule a meeting with the Building Inspector and Town Planner at least 30 days before the request for a Certificate of Occupancy to review compliance with this decision.

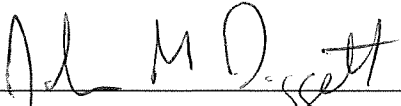
AFTER OCCUPANCY

24. The Applicant or future owner shall have the responsibility of maintaining its Facility in good repair and as indicated in the plans.

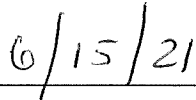
MODIFICATION OF SPECIAL PERMIT

25. The following shall be used in the event modifications to the approved Plans and Decision are requested:
 - (a) Minor Modification – Changes to the approved Plan which, in the opinion of the Board, and which are consistent with the terms of Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, do not substantially alter the concept of the approved Plan in terms of the qualities of the specific location, the proposed land use, the design of building form and approved building details and materials, site grading or egress points including but not limited to small changes in site layout, topography, architectural plans, landscaping plans, traffic circulation, parking, lighting plan, signage, open space or other criteria set forth in MGL must be submitted to and approved by the Planning Department.
 - (b) Major Modification – Substantial additions, deletions or deviations from the approved Plan including, but not limited to, large changes in site layout, topography, architectural plans, landscaping plans, traffic circulation, parking, lighting plan,

signage, open space or other criteria set forth in MGL are subject to a public hearing and vote by the Planning Board. Approval of the major modification shall be grounds for reconsideration of the Site Plan application and Special Permit. Denial of proposed major modification shall not invalidate the Site plan in conformance with the previously approved Plan.



John "Marty" Doggett, Vice Chairperson
Salisbury Planning Board



Date

APPEAL NOTICE

Appeals of this decision shall be made in accordance with the M.G.L. Ch. 40A, §17 and shall be filed within twenty (20) days of the date of filing of this decision in the Office of the Salisbury Town Clerk.

By law, this decision shall not take effect until a copy of such notice has been certified by the Town Clerk that; Twenty (20) days has elapsed since the decision was filed and no appeal has been filed.

The Petitioner shall present and record the certified decision at the Essex Registry of Deeds in Salem, MA. The cost of the recording shall be borne by the Petitioner. A certified copy must then be presented to the Building Inspector in order to apply for an appropriate permit.

This Decision will lapse if Substantial use of the Petitioned Relief is not made within two (2) years for a Special Permit and the work authorized hereunder must have active development or at least substantial progress toward implementation of the approved Site Plan occurring within five years or the approval becomes void. This approval may be extended by the issuing authority for an additional two-year period if, in the opinion of the issuing authority, there is just cause to approve an extension.

cc: Applicant
Assessor
Town Clerk
Building Inspector
DPW Director
File