Town of Walpole
Commonwealth of Massachusetts
Zoning Board of Appeals

Matthew Zuker, Chairman
James S. DeCelle, Vice Chairman
Craig W. Hiltz, Clerk
Mary Jane Coffey, Member
Susanne Murphy, Member
Timothy C. Foley, Associate Member

June 22, 2016

DECISION - BOARD OF APPEALS CASE NO. 06-16

APPLICANT:
Cellco Partnership d/b/a Verizon Wireless

LOCATION OF PROPERTY INVOLVED:

(Approximately) 234 Baker Street, Walpole, MA and shown as Utility Pole No. 46-28-1x, Zoning District Rural.

APPLICATION FOR:

A **Special Permit** under Section 10-F of the Zoning Bylaw to allow the installation of a wireless communications facility on an existing pole situated at (approximately) 234 Baker Street.

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On June 8, 2016, a Public Hearing was held in the Main Meeting Room of Town Hall for the purpose of receiving information as to the granting of a **Special Permit.** Said public hearing was closed and voted on June 8, 2016.

The following members were present and voting:

Matthew Zuker, Chairman
James S. DeCelle, Vice Chairman
Susanne Murphy
Timothy Foley, Associate Member

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The property in question contains an existing pole and is located in the Rural Zoning District.

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A motion was made by Susanne Murphy and seconded by James DeCelle to grant a Special Permit from Section 10-F of the Zoning Bylaws to allow the installation of a wireless communications facility with respect to property located at (approximately) 234 Baker Street, Walpole, MA.

The vote was **(4-0-0) in favor** (Zuker, DeCelle, Murphy and Coffey voting), therefore the **Request for a Special Permit** is hereby **GRANTED**.

REASONS FOR DECISION:

1) The applicant demonstrated there is a need for this wireless facility at this location.

2) The granting of the Special Permit conforms to the criteria set forth in Section 10-F.6.D of the Town of Walpole Zoning Bylaw.

3) The Board finds that this project is in harmony with the general purpose and intent of this Bylaw and the Board's regulations. The Board makes the following findings:

   (a) That the applicant is not already providing adequate coverage or is unable to maintain adequate coverage without the special permit;
   (b) That the applicant is not able to use existing facility sites either with or without the use of repeaters to provide adequate coverage;
   (c) That the proposed wireless service that has the appearance of a transformer on an existing pole facility minimizes any adverse impact on historic resources, scenic views, residential property values, and natural or manmade resources;
   (d) That the applicant has agreed to implement all reasonable measures to mitigate the potential adverse impacts of the facilities;
   (e) That the facility shall comply with the appropriate FCC regulations regarding emissions of electromagnetic radiation and that the required monitoring program is in place and shall be paid for by the applicant.

CONDITION:

1. As requested by the Walpole Police Department, a detail officer will be present while the work is being conducted at this location.

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Consistency: This decision is consistent with purpose and intent of the Zoning By-laws.

The grant of relief under this decision is limited to the relief expressly granted hereunder; and any other relief sought is hereby denied.

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Said Special Permits are granted pursuant to Massachusetts General Laws c. 40A, s.9 which provides in pertinent part as follows:

> *"...special permits granted under this section shall lapse within a specified period of time, not more than two years, which shall not include such time required to pursue or await the determination of an appeal referred to in section seventeen, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause."*

Massachusetts General Laws c. 40A, s. 11. provides in pertinent part as follows:

> *"A special permit, or any extension, modification or renewal thereof, shall not take effect until a copy of the decision bearing the certification of the city or town clerk that 20 days have elapsed after the decision has been filed in the office of the city or town clerk and either that no appeal has been filed or the appeal has been filed within such time, or if it is a special permit which has been approved by reason of the failure of the permit granting authority or special permit granting authority to act thereon within the time prescribed, a copy of the application for the special permit-accompanied by the certification of the city or town clerk stating the fact that the permit granting authority or special permit granting authority failed to act within the time prescribed, and whether or not an appeal has been filed within that time, and that the grant of the application resulting from the failure to act has become final, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone. This section shall in no event terminate or shorten the tolling, during the pendency of any appeals, of the 6 month periods provided under the second paragraph of section 6. The fee for recording or registering shall be paid by the owner or applicant."*

MASSACHUSETTS GENERAL LAWS c. 40A, s. 15 PROVIDES THAT APPEALS FROM A DECISION OF A BOARD OF APPEALS SHALL BE MADE PURSUANT TO

SECTION 17 OF c 40A AND SHALL BE FILED WITHIN TWENTY DAYS AFTER THE DATE OF FILING OF THE NOTICE OF DECISION IN THE OFFICE OF THE CITY OR TOWN CLERK.

This decision was made on June 8, 2016 and filed with the Town Clerk on June 22, 2016.

WALPOLE ZONING BOARD OF APPEALS

Matthew Zuker, Chairman

MZ/k:16-14

cc: Town Clerk
Board of Selectmen
Engineering
Building Inspector
Planning Board
Conservation Commission