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**TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS**

Special Permit

***DISH Wireless L.L.C., applicant
Hillside Investment Group, LLC, owner
460 Hillside Avenue
Map 100, Parcel 3***

December 14, 2023

DISH Wireless, LLC, applied to the Board of Appeals for a Special Permit under Sections 6.7.3.3 (b) (c) and any other applicable section of the By-Law to install as part of their wireless telecommunications network the following equipment: 3 antennas, 6 remote radio units, 3 junctions boxes, 3 fiber cables, and 3 power cables. The property is located at 460 Hillside Avenue, Needham, MA in the Industrial (I) District. A public hearing was held in the Charles River Room, Public Service Administration Building, 500 Dedham Avenue, on Thursday, December 14, 2023 at 7:30 p.m. The meeting was livestreamed on Zoom.

Documents of Record:

- Application for Hearing, Clerk stamped October, 23, 2023.
- Revised Application for Hearing, Clerk stamped October 31, 2023.
- Letter prepared by Andrew Gorham of Network Building and Consulting, NB+C, undated.
- Plans T-1, Z-1, A1-A6, E1-E3, G1-G3, GN-2-6, ST1-2, RF-1 prepared by NB+C, stamped by Krupakran Kolanbaivelu, Massachusetts registered professional engineer, dated October 23, 2023.
- Letter authorizing application prepared by NB+C signed by Kenneth Shapiro, Principal, Hillside Investment Group, LLC, dated September 28, 2023.
- Images Views 1-3 of Parking Loop from the Northeast, West and North of current and proposed conditions; and the Location Map.
- DISH Wireless RF Equipment Information for 460 Hillside Avenue, Needham, MA, BOBOS0105S8A Rev 2, dated August 2, 2023.
- Letter from Lee Newman, Director of Planning and Community Development, dated October 3, 2023.
- Letter from Joseph Prondak, Building Commissioner, December 5, 2023.

- Letter from Thomas A. Ryder, Assistant Town Engineer, December 5, 2023.
- Email from Chief Tom Conroy, Fire Department, December 5, 2023.
- Email from Chief John Schlittler, Police Department, December 4, 2023.
- Email from Tara Gurge, Assistant Public Health Director, December 5, 2023.

Documents submitted after December 14, 2023:

- Email from Andrew Gorman, December 15, 2023.
- Site Lease Agreement between Hillside Investment Group, LLC and DISH Wireless L.L.C. dated September 14, 2023.
- Proposed Rooftop Antenna Installation prepared by NB+C Engineering Services, dated March 23, 2022.
- Affidavit of Radio Frequency Engineer prepared and signed by Sammer Parakkavetty, Radio Frequency Design Engineer, DISH Wireless L.L.C dated January 8, 2024.
- Revised Affidavit of Radio Frequency Engineer prepared and signed by Sammer Parakkavetty, Radio Frequency Design Engineer, DISH Wireless L.L.C dated January 18, 2024.

December 16, 2023

The Board included Jonathan D. Tamkin, Chair; Howard S. Goldman, Vice-Chair; and Nikolaos M. Ligris, Member. Also in attendance were Peter Friedenber, Associate Member; and Valentina Elzon, Associate Member. Mr. Tamkin opened the hearing at 7:32 p.m. by reading the notice of hearing.

Andrew Gorham, engineer for Network Building and Consulting (“NB+C”) appeared representing DISH Wireless, L.L.C. in the installation of the wireless antennas. Mr. Gorham noted that as a result of the merger of T-Mobile and Sprint three years ago, DISH Wireless became the fourth largest carrier who is now positioned to build out their own network. The proposed project is part of this new network. The relief sought is to allow two eight feet tall antennae to be installed at 2.9 feet from the roof edge where ten feet are required.

Mr. Gorham explained that NB+C is planning to install three antennae, three remote radio units (RRU) and cabling along the building. They will be using the same route of previous carriers who have vacated the location. He identified the Alpha, Beta and Gamma sectors of the roof top plan (Building Plan Sheet A1) where proposed DISH equipment will be installed.

Mr. Tamkin asked what other carriers are on this building. Mr. Gorham noted that T-Mobile, ATT and Verizon shared the roof.

Mr. Tamkin asked for the report regarding compliance of the radio frequencies with FCC guidelines, and the report from the structural engineer. Mr. Gorham noted the blue seal stamp of a registered Professional Engineer on all the plans certify that the plans and DISH wireless sites are within the 600mhz FCC compliance. Mr. Tamkin requested a report attesting to that compliance. Mr. Gorham agreed to submit a letter from their engineer certifying compliance.

Mr. Tamkin asked about the engineering report attesting to the structural integrity of the building. Mr. Gorham reported that their full services engineering team ran a full analysis of the

structural integrity of the building to handle the load of the equipment. He noted that that analysis was not included in the application. He offered to send a copy of the analysis. Mr. Tamkin noted that they are required as part of the issuance of a Special Permit and will be made a condition of the Special Permit.

Mr. Goldman asked why not install the antennae at ten feet as required by the By-Law. Mr. Gorham responded that the roof is crowded by other carriers and HVAC equipment. Clustering DISH equipment was preferred as it would minimize interference with existing equipment. In addition, selecting a building that is already identified as a wireless hub was preferred to selecting a new building roof. All the equipment will be painted to match the surroundings. The simulation photos showing the current and proposed conditions was highlighted to indicate their concealment of the proposed equipment.

Mr. Goldman asked what the building use was. Mr. Gorham said the building was used for general office use.

Comments received:

- The Fire Department had no comment.
- The Police Department was concerned about interference with public safety radio operations. Mr. Gorham asserted there would be no interference and that the frequency is different from the public radio frequency. Mr. Tamkin asked that it be noted in the affidavit regarding compliance with FCC regulations.
- The Health Department requested assurance that the additional equipment does not cause risk of public health safety or nuisance concerns.
- The Building Department noted that roof mounted antenna not more than 10 feet high are required to be set back from the edge of the roof at least the distance equal to their height. Two of the proposed antennae are 8 feet in height and are setback 2.9 feet from the roof edge which requires a Special Permit under Section 6.7.3.3 (b) of the By Law. The wall mounted antenna is located below the top of the wall and is proposed to be painted to match the façade and is allowed by right.
- The Planning Board had no comment.
- The Engineering Department had no comment or objection.

There were no comments from the public. The public comment portion of the meeting was closed.

Mr. Ligris requested that the engineering affidavit include that the frequency will not interfere with the public safety frequency and that its submission be a condition of the Special Permit.

Mr. Goldman had no objection and was satisfied with the rationale for seeking relief for the location of two of the antennae. His concerns regarding any interference with public safety frequencies were allayed.

Mr. Tamkin inquired about the equipment on the ground and the lease agreement. Mr. Gorham responded that there will be a three foot by five foot platform for the generator; and that there is a lease agreement. Mr. Tamkin requested that the lease be submitted with the financials

redacted.

Mr. Tamkin asked about the noise of the equipment and generator and how frequently is it tested. Mr. Gorham said that the equipment is in compliance with FCC requirements and does not make noise and has to be tested per FCC requirements. Mr. Goldman said that the Board requires that once the generator is installed that it be tested for noise and that it operates as intended. Ms. Collins noted that the Board conditions the testing of generators during working hours to ensure noise does not disturb abutting residents. Mr. Tamkin inquired when generators are tested. Mr. Gorham responded that the generators are tested as needed and there is no noise associated when the generators kick on and off in the evening. Mr. Tamkin requested that an affidavit be submitted addressing the sound study of the generators attesting to their compliance to FCC standards.

In a December 15, 2023 email from Mr. Gorman, Mr. Gorman noted that the project does not include a generator. This is consistent with the plans submitted and verified by the Building Commissioner.

Mr. Goldman moved to grant a Special Permit to DISH Wireless L.L.C., under Sections 6.7.3.3 (b) (c) and any other applicable section of the By-Law to install as part of their wireless telecommunications network the following equipment: 3 antennas, 6 remote radio units, 3 junctions boxes, 3 fiber cables, and 3 power cables in accordance with the plans submitted with the following conditions:

That affidavits stamped by a registered professional engineer will be submitted certifying that:

- a) the structural integrity of the building supports the installation of the proposed equipment;
- b) the equipment frequency will not interfere with public safety radio operations; and
- c) the proposed network complies with FCC guidelines.

Mr. Ligris seconded the motion. The motion was unanimously approved.

Mr. Tamkin requested that all the affidavit(s) requested be submitted as soon as possible so that they may be reflected in the Decision.

The meeting adjourned at 7:51 p.m.

Findings:

On the basis of the evidence presented at the hearing, the Board makes the following findings:

1. The premises is located in the Industrial District and improved with a three-story office building. In a decision dated April 28, 2005, the Board found that the building is 40 feet 8 inches in height which exceeds the current limitation of 40 feet. In addition, there is an extended elevator shaft that extends an additional 9 feet 8 inches bringing the total height of the building to 50 feet 4 inches. The building exceeds the

current height limit, was constructed prior to the adoption of the height limitation in the District and constitutes a lawful nonconforming building.

2. The applicant proposes to install three antennas, six remote radio units, three junction boxes, three fiber cables, and three power cables on the roof of the building as part of the build out of their wireless communication network.
3. Two of the antennas are eight feet high but set back only 2.9 feet from the roof edge and not at least the distance equal to their height per Section 6.7.3.1 (e) of the By-law and therefore requires a Special Permit under 6.7.3.3 (b).
4. One antenna is located below the top of the wall. It is proposed to be painted to match the façade and will not obscure or conceal existing architectural features on the façade on which it is mounted as allowed per right under Section 6.7.3.1(f) per a current photo and the photographic superimpositions submitted.
5. The applicant is licensed by the Federal Communications Commission to construct and operate a wireless telecommunications network.
6. The applicant will submit to the Board and Building Inspector an affidavit from their engineer or a radio frequency consultant that the radio frequency energy will comply with the FCC limits for the public and with FCC standards on interference and will not interfere with the public safety radio frequency.
7. The applicant will submit a structural analysis from their engineer to the Board and Building Inspector certifying as to the structural safety of the installation.
8. The proposed installation is consistent with the policies set forth in Section 6.7.1 of the Zoning By-law including maximizing the use of existing buildings, encouraging co-location of equipment and concealing new equipment and the criteria set forth in Section 6.7.5 of the Zoning By-law.
9. The proposed installation is consistent with the general purposes of the Zoning By-law, is designed in a manner compatible with the existing natural features of the site, is compatible with the characteristics of the surrounding area and does not have a demonstrable adverse impact on the surrounding area.
10. The issuance of a special permit will not result in the violation of any dimensional, parking or intensity regulation with which the structure was theretofore in conformity.
11. The proposed installation will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Decision:

On the basis of the foregoing findings, following due and open deliberation, upon motion duly made and seconded, the Board by unanimous vote, grants the applicant a Special Permit under Section 1.4.6 and Section 6.7.3.3(b) of the Zoning By-law to install wireless

communication equipment on the roof of the existing building at 460 Hillside Avenue, in accordance with the plans submitted with the application and subject to the conditions that:

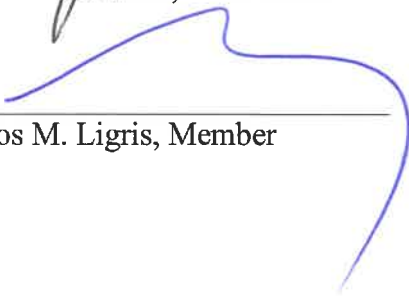
- a) the applicant shall submit a structural analysis to the Board and Building Inspector in a form satisfactory to the Building Inspector as a condition to obtaining a building permit; and
- b) the applicant will submit to the Board and Building Inspector an affidavit of a radio frequency consultant that the radio frequency energy will comply with the FCC limits for the public and with FCC standards on interference and will not interfere with the public safety radio frequency.



Jonathan D. Tamkin, Chair



Howard S. Goldman, Vice-Chair



Nikolaos M. Ligris, Member