

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

www.montgomerycountymd.gov/content/council/boa/index.asp

(240) 777-6600

Case No. S-2805

**PETITION OF T-MOBILE NORTHEAST, LLC. AND
JOHN D. AMMERMAN**

OPINION OF THE BOARD

(Opinion Adopted December 14, 2011)

(Effective Date of Opinion: December 23, 2011)

Case No. S-2805 is an application for a special exception, under Section 59-G-2.58 of the Zoning Ordinance, to permit the construction and operation of a telecommunications facility. The subject property is Parcel 423, located at 19100 Wasche Road, Dickerson, Maryland, 20842, in the RDT Zone.

The Hearing Examiner for Montgomery County held a public hearing on the application on June 24, 2011, September 19, 2011, and November 17, 2011, closed the record in the case on November 28, 2011, and on December 2, 2011, issued a Report and Recommendation for approval of the special exception, subject to conditions.

Decision of the Board: Special Exception **Granted** Subject to
The Conditions Enumerated Below.

The Board of Appeals considered the Hearing Examiner's Report and Recommendation at its Worksession on December 14, 2011. After careful consideration and review of the record, the Board adopts the Report and Recommendation and grants the special exception, subject to the following conditions:

1. The Petitioners shall be bound by all of the exhibits of record, and by the testimony of their witnesses and the representations of counsel to the extent that such testimony and evidence are identified in the Hearing Examiner's Report and Recommendation and in this opinion.
2. At the completion of construction, before the support structure may be used to transmit any signal, and before the final inspection pursuant to the building

permit, the Petitioners must certify to the Department of Permitting Services that the height and location of the support structure is in conformance with the height and location of the support structure as authorized in the building permit.

3. The Petitioners shall plant additional screening trees off-site between the Ammerman residential property (Parcel P479) and the Yates property (Parcel P595), as agreed to by Petitioners in the manner described in their submission labeled Exhibit 58(a).
4. The telecommunication facility must display a contact information sign, no larger than two square feet, affixed to the outside of the equipment enclosure. This sign must identify the owner and the maintenance service provider and provide the telephone number of a person to contact regarding the installation. The sign must be updated and the Board of Appeals notified within 10 days of any change in ownership.
5. There must be no antenna lights or stroboscopic lights unless required by the Federal Communications Commission, the Federal Aviation Administration, or the County.
6. There must be no outdoor storage of equipment, except equipment specified in the Site Plan.
7. Each owner of the telecommunications facility is responsible for maintaining the facility in a safe condition.
8. The facility shall be available for co-location of up to three carriers.
9. The telecommunications facility must be removed at the cost of the owner of the telecommunications facility when the facility is no longer in use by any telecommunications carrier for more than 12 months. In addition, the 10-foot by 20-foot concrete platform and 50-foot by 50-foot gravel area must be removed by the facility owner at the owner's expense, at the time that the pole is removed; restoration of the soils must be done at the owner's expense in consultation with staff at the Montgomery Soil Conservation District.
10. Petitioners must obtain a Hazmat Use Permit for the subject site before commencing operations.
11. Petitioners must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the special exception premises and operate the special exception as granted herein. Petitioners shall at all times ensure that the special exception use and the entire premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

On motion by Stanley B. Boyd, seconded by David K. Perdue, Vice-Chair, with Carolyn J. Shawaker, Walter S. Booth and Catherine G. Titus, Chair, in agreement, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.

Catherine G. Titus
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 23rd day of December, 2011.

Katherine Freeman
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

See Section 59-A-4.53 of the Zoning Ordinance regarding the twenty-four months' period within which the special exception granted by the Board must be exercised.