



City of Waltham

COMMONWEALTH OF MASSACHUSETTS

ZONING BOARD OF APPEALS

LEGAL NOTICE

DATE FILED: October 13, 2011

THE ZONING BOARD OF APPEALS OF THE CITY OF WALTHAM WILL HOLD A PUBLIC HEARING IN THE GOVERNMENT CENTER, 119 SCHOOL STREET, WALTHAM, MA ON TUESDAY, **NOVEMBER 22, 2011** AT 7:00 P.M. ON THE FOLLOWING:

Case #: 2011-21. Petitioner(s): MetroPCS Massachusetts LLC. **Owner(s):** Interstate Tower Communications, Inc. **Nature of Appeal/Petition:** Application for Variances-Dimensional and Appeal of determination that Section 10.543 applies to subject application and that variance relief is required. **Subject Matter:** Petitioner proposes to affix six (6) panel antennas to the existing tower. The antennas will connect to ancillary equipment cabinets to be located at the base of the tower within the existing fenced compound. A small GPS antenna, for E911 compliance, will be mounted to the cable bridge within the existing fenced compound. The complete facility is shown on the submitted plans which are incorporated herein by reference. The proposal is similar to the existing facilities located on the tower, which are operated by competitors. **Location and Zoning District:** 39 Sachem Street; Residence A-3 Zoning District. **Provisions of Zoning Ordinance Involved:** Sections 3.7, 7.2, and 10.543. **Specific Manner in Which Subject Matter Varies From Zoning Ordinance:** Proposed wireless communication equipment which will be affixed to the existing tower will not be setback more than 125 feet from the property line and the proposed equipment shall not be setback at least 4 feet for every 1 foot of antenna height from the nearest public right-of-way or residential structure, so according to the building department, the proposed facility fails to comply with the fall zone requirement set forth in Section 10.543. The Petitioner reserves its rights that Section 10.543 is not applicable to the proposed facility based on the principles of statutory construction, scope of Section 10.54, and federal law prohibiting a municipality from unreasonably discriminating amongst providers of functionally equivalent telecommunication services. The proposed facility is virtually identical to the existing wireless communication facilities located on the tower and operated by competitors of the Petitioner. The fall zone requirements were not imposed on the existing wireless communication facilities. As such, the Petitioner hereby appeals the determination that Section 10.543 applies to the subject application and alternatively, seeks dimensional variance relief, only to the extent necessary, all rights reserved. Further information and plans concerning this case may be viewed at the Zoning Board of Appeals' Office, 119 School Street, Waltham, Massachusetts 02451; Hours: Monday - Friday 8:30-4:30. **MEMBERS:** Chair Barbara Rando, Michael Cotton, Mark Hickernell, John Sergi, Glenna Gelineau. **ASSOCIATE MEMBERS:** Edward McCarthy, Oscar LeBlanc, Marc Rudnick, Michael Squillante, Gordon LaSane.

