

HANS C. EYSENBACH
ATTORNEY
heysenbach@verrill-law.com
207-253-4722

Verrill Dana LLP
One Portland Square
Portland, Maine 04101-4054
Main 207-774-4000

BY ELECTRONIC MAIL (lcagno@cityofmalden.org)

September 10, 2021

Attn: Lisa M. Cagno, Clerk of Committees
Councillor Amanda Linehan
Public Property Committee
Malden City Hall
215 Pleasant St., 4th Floor
Malden, MA 02148

RE: Request to Reconsider Recommended Denial of Attachment Authorization Request
by ExteNet Systems, Inc., for the Utility Pole Adjacent to 71 Plainfield Avenue.

Dear Councillor Linehan:

I am writing on behalf of ExteNet Systems, Inc., (“ExteNet”), a nationwide provider of network infrastructure for wireless carriers. For over five years, ExteNet has operated four existing Small Cell Wireless Facilities within the City of Malden (“the City”). On January 1, 2020, ExteNet filed an application with the Malden City Council requesting approval to install 19 small wireless facilities (“Application”) on locations throughout the City, 18 of which the City has approved for installation. ExteNet currently has 17 small wireless facilities installed and “on-air” in the City. The proposed small wireless facility that is subject of this request will further enhance the wireless network capacity around the site.

On October 27, 2020, the Public Property Committee recommended that the City deny 4 of ExteNet’s 19 requested attachment locations. On May 25, 2021, ExteNet requested that the Committee reconsider its denial of 3 of the 4 sites. On June 29, 2021, the City Council approved those 3 sites.¹ ExteNet respectfully requests that the Committee reconsider its Oct. 27, 2020 recommendation for the fourth site: a wooden utility pole adjacent to 71 Plainfield Ave. The subject location complies with Malden Code 11.24.020 Siting and Installation of Wireless Communications Equipment (“Wireless Code”) and poses no adverse impacts to shade trees.

¹ The three sites for which ExteNet received grants of location are utility poles adjacent to 84 Durso Ave., 52 Malden St., and 183 Highland Ave.

ExteNet’s understanding is that the Committee’s Oct. 2020 recommended denial was due to the site’s proximity to the shade tree across the sidewalk from the utility pole in front of 71 Plainfield Ave. ExteNet submits the following reasons for the Committee’s reconsideration of this location.

The Malden Wireless Code Permits the Siting of Small Wireless Facilities that Minimize Adverse Impacts to Shade Trees; and ExteNet’s Proposed Attachment Will Not Impact the Adjacent Shade Tree.

Regarding shade trees, Section H and J of the Malden Wireless Code require selection of locations that minimize any adverse effects upon shade trees, and Section H prohibits the removal of a shade tree for an attachment:

H. No adverse effect upon pedestrian or other rights of way or removal of public shade trees: . . . *No installation shall be allowed that requires the removal of a public street tree.*

J. Obligation to minimize harm to public shade trees and repair and restore damages:

1. *Installations shall be chosen to minimize pruning and other adverse impacts to public shade trees during installation and long-term maintenance. Any pruning shall be done under the supervision of the City of Malden Tree Warden or Director of Public Works. Trimming of any branches of over 4-inches in circumference shall require the installation of a new public street tree of at least 6-inches in diameter at a location to be designated by the City’s Public Works Director.*

(Emphases added).

In essence, the Wireless Code requires that all Small Wireless Facility locations minimize “adverse impacts to public shade trees.” At the proposed site, ExteNet’s attachment will not require any additional tree trimming. As the Committee is aware, National Grid, as the pole owner, has sole discretion over any tree trimming to keep branches clear of utility poles and wires to prevent power outages or damage to the wires or poles. Here, ExteNet understands that National Grid will not perform any additional tree trimming to accommodate the proposed attachment.

ExteNet submits that the information provided here establishes that the proposed site complies with the Malden Wireless Code. In particular, the proposed utility pole is 23 feet from the nearest residence, which is well over the FCC’s RF emission minimum distance of 15.1 feet, based on specifically proposed equipment,² and complies with the City Ordinance’s distance requirements. Therefore, ExteNet respectfully requests that the Committee reconsider its initial

² See Attachment 3 – Radio Frequency Emission Report. The site addressed by this request is NE-MA-BSTN2N01-02006, and is included in page 13 of the consolidated report, which covers sites in Malden, Revere, Lynn, and Everett.

determination and recommend that the City Council issue a grant of location for a small wireless attachment to the utility pole adjacent to 71 Plainfield Ave.

ExteNet encloses the following further information for the Committee's reconsideration of this location:

1. Engineering drawings of the proposed attachment;
2. Current site pictures; and
3. Radio Frequency Emission Report.

Should the Committee have any questions or require additional information, please do not hesitate to contact me.

Thank you,



Hans C. Eysenbach
Verrill Dana, LLP
T (207)-253-4722
heysenbach@verrill-law.com

Attorney for ExteNet Systems, Inc