

PETITION FOR A SPECIAL PRIVILEGE

SP 1961

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SUBMIT PETITION IN DUPLICATE

November 10, 20 00

To the Honorable, The Common Council of the City of Milwaukee:

Council Members:

The undersigned Voicestream Wireless (Voicestream PCS II Corporation)
(State whether petitioner is an individual, co-partnership, Wisconsin or foreign corporation)

being the ^{Lessee} owners of the following described real estate:

See attached - situated at the intersection of Tucker Place and
West Lisbon Ave. (8814 West Lisbon Ave.)
(Legal description)

and number as 8814 West Lisbon Ave. in the 5th Aldermanic District also known by street
City of Milwaukee according to the provisions of Section 66.045 of the Wisconsin Statutes, that the following privilege be granted:

Placement of conduit in the Public Way (Alley) for the purposes
of private and municipal communication at the above referenced location
(approx. 40 feet)
(Here describe the privilege)

of which a plan or sketch is herewith submitted. Petitioner agrees to comply with all laws and all ordinances of the City of Milwaukee, to abide by any order or resolution of the Common Council affecting this privilege, to be primarily liable for damages to person or property by reason of the granting of such privilege, to furnish a bond and pay annual compensation as provided by law in the sum to be fixed by the proper city officers, and to file and keep current throughout the existence of the privilege, a certificate of insurance indicating applicant holds a public liability policy in at least the sums of \$25,000.00/\$50,000.00 bodily injury, and \$10,000.00 property damage, insuring the city against any liability that might arise by reason of the privilege.

Petitioner further agrees to remove said privilege whenever public necessity so requires when so ordered upon resolution adopted by the Common Council or other legislative body.

Should this special privilege be discontinued for any reason whatsoever, petitioner agrees to remove all construction work executed pursuant to this special privilege, to restore to its former condition and to the approval of the Commissioner of Public Works, any curb, pavement, or other public improvement which was removed, changed or disturbed by reason of the granting of this special privilege. Petitioner further agrees not to contest the validity of Section 66.045 of the Wisconsin Statutes, or the legality of this special privilege in any way.

FILE WITH CITY CLERK LICENSE DIVISION
ROOM 105 CITY HALL, 200 EAST WELLS STREET

Signed Jeffrey J. Fonte (Jeffrey J. Fonte)

Address 119 W 24075 Riverwood Dr. Waukesha WI
53189

CITY CLERK
RECEIVED
NOV 10 2000 8:21

Voicestream PCS II Corporation

(if firm, society or corporation, give its full name)

Same as above

Address

In the Matter of the Appeal of:

Case No. 23147

VOICE STREAM WIRELESS II CORP., PETITIONER
JACK A. MELVIN

Premises:

8814 W. LISBON AV.

The above matter was heard before the Board of Zoning Appeals of the City of Milwaukee on September 21, 2000 and October 12, 2000, based on an appeal from a determination of the Commissioner of City Development of the City of Milwaukee dated August 22, 2000, of a request for permit to replace the existing 210 ft. lattice tower with a 210' monopole tower. A decision of the Board was rendered on October 12, 2000. The decision and the minutes were filed immediately thereafter in the office of the Board of Zoning Appeals pursuant to Wisconsin Statutes, 62.23(7)(e)3.

IT IS FOUND:

That the Plan Examiner from the Department of City Development properly denied the request to replace the existing 210 ft. lattice tower with a 210' monopole tower.

Variances are required by the Milwaukee Code of Ordinances for the following reasons:

295-322

A 210 ft. monopole tower is not permitted in a Local Business district.

The Board of Zoning Appeals concluded, after receiving the Notice of Appeal and Application for Review from the petitioner, and after due notice to the parties in interest, and having heard the evidence of the petitioner, interested parties, and the City of Milwaukee, and being fully advised in the premises,

IT IS CONCLUDED:

Based on the testimony heard by the Board, that the proposed Variance Under Section 295-322 of the Milwaukee Code of Ordinances is consistent with:

1. Preservation of Intent.
That the variance would not be inconsistent with the spirit, purpose and intent of the regulations for the district in which it is requested.
2. Exceptional Circumstances.
That exceptional, extraordinary or unusual circumstances or conditions apply to the lot or intended use that do not apply generally to other properties or uses in the same district, and the variance is not of so general or recurrent nature to suggest amendment of the regulation.
3. Preservation of Property Rights.
That the variance is necessary for the preservation and enjoyment of the same substantial property rights which are possessed by other properties in the same district and same vicinity.
4. Absence of Detriment.
That the variance will not create substantial detriment to adjacent property, and will not materially impair or be contrary to the spirit, purpose and intent of this chapter, or the public interest.

5. Hardship.
That the alleged difficulty or hardship is not self imposed nor is it based solely on economic grounds.

provided that the following conditions are complied with,

IT IS ORDERED AND DETERMINED:

On the basis of the Findings, Conclusions, and the record herein, that a Variance to replace the existing 210 ft. lattice tower with a 210' monopole tower is hereby granted.

Subject to the following conditions:

1. That the building and premises shall, in all other respects, comply with applicable building and zoning code regulations.
2. That any permits required to execute the approved plans be obtained within six (6) months of the date hereof.
3. That the Plan of Operation and all plans as submitted to the Board, be fully complied with and maintained.
4. That this Variance is granted for a period of ten (10) years, commencing with the date hereof.

That this Variance is subject to revocation upon a finding that these conditions have not been fully complied with.

Any one aggrieved by the decision of the Board may appeal to the Circuit Court within thirty (30) days of the date hereof.

Dated October 17th, 2000.

BOARD OF ZONING APPEALS



Craig H. Zetley
Chairman



Daniel A. O'Callaghan
Secretary